

2026:PHHC:007638



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

RSA-1238-2025 (O&M)
Date of decision: 19.01.2026

Vinod Kumar

....Appellant

V/s

Naresh Kumar and others

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Ms. Dhivya Jerath, Advocate, for the appellant.
(Through Virtual Mode)

VIKRAM AGGARWAL, J.

This is plaintiff's appeal against the judgment and decree dated 17.01.2025 passed by the Court of Additional District Judge, Bhiwani, dismissing the appeal against the judgment and decree dated 09.05.2017 passed by the Court of Additional Civil Judge (Sr. Divn.), Bhiwani, vide which the suit of the plaintiff for permanent injunction was dismissed.

2. For the sake of convenience and clarity, parties shall be referred to as per their original status.

3. Plaintiff filed a suit for permanent injunction restraining the defendants from interfering in the peaceful possession of plot measuring 10 marlas (fully described in the plaint) situated within the revenue estate of village Loharu, District Bhiwani (hereinafter referred to as `the suit

property').

4. It was claimed that the plaintiff was a bisweddar of village Loharu and that he had purchased the suit property from one Smt. Saroj wife of Surender Pal, vide registered sale deed dated 21.05.1990. Mutation was sanctioned in favour of the plaintiff on 01.04.2000. After the purchase of the suit property, the plaintiff was handed over possession thereof by Smt. Saroj and the plaintiff had been in possession as owner of the same since then.

5. It was further claimed that in the month of December, 2012, the plaintiff had affixed pillars upon the suit property. The plaintiff further asserted that in the first week of January, 2014, the neighbours of the plaintiff informed him that the defendants were adamant to take forcible possession of the suit property by damaging the pillars. The plaintiff visited Loharu and had moved application dated 10.01.2014 against the defendants to the SHO, Loharu, but no action was taken. It was further pleaded that the defendants being strong headed persons, having no respect for law, were habitual in getting their work done forcibly and were adamant to take forcible possession of the suit property.

6. The suit was contested by the defendants by filing a joint written statement, taking preliminary objections regarding maintainability; cause of action; locus standi;

estoppel and the Civil Court having no jurisdiction. On merits, it was asserted that one Kamla Devi (wife of defendant No.2), who was a proper and necessary party, was not impleaded and, thus, the suit was liable to be dismissed. It was further averred that said Kamla Devi had purchased plot measuring 363 yards about 6 years back from Ram Singh (defendant No.2) vide sale deed dated 30.04.2014. It was further averred that said Kamla Devi was also owner of plot measuring 12 marlas, having purchased the same vide sale deed dated 04.03.1993. She had erected pillars around her plot, but the same were removed by the plaintiff illegally as he wanted to take forcible possession, but he was not allowed to do so. On account of the same, he had moved a false application to the police and had also filed a false case. It was further asserted that in the garb of ownership of the suit property, he wanted to take forcible possession of the plot of said Kamla Devi. Still further, it was the case of the defendants that the plaintiff had no right to seek injunction against another co-sharer and the proper remedy was to seek partition.

7. From the pleadings of the parties, the following issues were framed by the trial Court:

**“1. Whether the plaintiff is entitled for the relief of permanent injunction, as prayed for?
OPP.**

2. Whether the suit of the plaintiff has no locus standi or cause of action to file the present suit? OPD

3. Whether the suit is not maintainable in the present form?OPD

4. Whether the plaintiff is estopped by his own act and conduct from filing the present suit? OPD

5. Relief.”

8. Parties led their respective evidence.

9. The trial Court, vide judgment and decree dated 09.05.2017, dismissed the suit. The appeal preferred against the said decision was also dismissed by the Court of Additional District Judge, Bhiwani, vide judgment and decree dated 17.01.2025, leading to the filing of the instant appeal.

10. I have heard learned counsel for the appellant.

11. Learned counsel for the appellant submits that the findings recorded by both Courts are contrary to the evidence on record. It is further argued that it was the pleaded case of the plaintiff that the defendants had dismantled the pillars constructed over the suit property in the first week of January, 2014 and in this regard, the plaintiff had also moved an application to the SHO, Loharu, but the police did not take any action against them. It is also argued that it was proved on record that one Smt. Saroj, from whom the plaintiff had purchased the suit property, was in possession of land measuring 18 kanals 15

marlas. It is further argued that even if the defendants are co-sharers, they would have no right to interfere with the land of the plaintiff.

12. I have considered the submissions of learned counsel for the appellant, but find the same to be devoid of merit.

13. The trial Court, while dismissing the suit, found that on the basis of Ex.DW2/B, Kamla Devi, wife of defendant No.2 and mother of defendant No.3, had become co-sharer in the total suit land, whereas the defendants had no concern with the same. It was further found that despite having specific knowledge of the said fact, the plaintiff chose not to implead said Kamla Devi as a party to the suit and, thus, the suit was bad for non-joinder of a necessary party. It was further found that as per the settled law, one co-sharer cannot seek injunction against another co-sharer. It was also found that the plaintiff having concealed material facts from the Court, was not entitled to the discretionary relief of injunction.

14. The first Appellate Court, while affirming the findings recorded by the trial Court, recorded a categorical finding that there was no evidence on record as to when and how the defendants had demolished the alleged pillars erected on the suit property. It was further found that the version of the plaintiff regarding the alleged demolition of

the pillars, was based on hearsay evidence. It was also found that the plaintiff had purchased share of his vendor and as per the sale deed dated 30.04.2014, Smt. Kamla Devi (wife of defendant No.2) was owner qua her share of the land and thus, she was a co-sharer in the suit property. The denial of the factum of said Kamla Devi, being co-owner in the same khewat, by the plaintiff was held to be a mischievous act on the part of the plaintiff. It was also rightly found that even the boundaries of the suit property were not properly specified and, therefore, its identification was not clear.

15. Both Courts recorded concurrent findings of facts on the basis of evidence on record. Such findings cannot be said to be suffering from any patent illegality or infirmity, which may warrant interference by this Court in the present Regular Second Appeal.

16. In view of the above, finding no merit in the present appeal, the same is hereby dismissed.

17. Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

19.01.2026
ds

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No