



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

118**RSA-1721-2024 (O&M)****Date of decision:21.05.2026**

BALBIR AND ANOTHER

...APPELLANTS

VERSUS

SURAT SINGH AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Rohit Mittal, Advocate
for appellant.

PARMOD GOYAL, J. (ORAL)

Present regular second appeal has been filed by appellants-plaintiffs being aggrieved by judgment and decree dated 09.02.2017 passed by learned Civil Judge (Junior Division), Narnaul, whereby suit for permanent injunction preferred by appellants-plaintiffs was dismissed and also by judgment and decree dated 13.03.2024 passed by learned Additional District Judge, Narnaul, whereby first appeal preferred by appellants-plaintiffs was also dismissed.

2. In the suit for permanent injunction, appellants-plaintiffs had sought to restrain respondents-defendants from taking possession of more than their share over the joint *Gair Mumkin Chah (Kaymi)* situated in khewat No.28, khatoni No.35, killa No.7//26(1-12) at Village Badopur, Tehsil Narnaul and changing the nature of suit property, cutting of trees more than their share over the suit property. Appellants-plaintiffs also sought to restrain respondents-defendants from damaging their *kothri* situated in the suit property. It was asserted that both the parties have got half share and are in possession of their respective share. It was claimed by appellants-

plaintiffs that they and respondents-defendants have constructed two *kothris* over the suit property and now respondents-defendants are trying to claim possession of more than their share over the suit property. It was also claimed that respondents-defendants want to change the nature of suit property, cut the trees situated on the suit property and destroy the *kothri* of appellants-plaintiffs. Therefore, suit for permanent injunction was prayed for.

3. Respondents-defendants appeared and contested the suit by filing written statement and claimed that the suit land is not joint. It was asserted that both the parties had mutually agreed to partition the suit property and accordingly they are in their respective independent possession of half share of suit property. The assertions made by appellants-plaintiffs were stated to be wrong. Hence, dismissal of suit was prayed for.

4. Following issues were framed from the pleadings of the parties:-

- i. Whether the suit estate stands joint one inter se the plaintiff and the defendants? OPP
- ii. If issue No.1 is proved affirmatively, whether the plaintiff is entitled for the decree of perpetual injunction as has been claimed in the plaint? OPP
- iii. Whether the suit of the plaintiff is not maintainable ? OPD
- iv. Whether plaintiff has not approached the Court with clean hands ? OPD
- v. Whether the defendant is entitled to special cost u/s 35A CPC? OPD
- vi. Relief.

5. Evidence was led by both the parties. Both the witnesses i.e.

PW1-Balbir Singh and PW2-Sube Singh, examined by appellants-plaintiffs, had clearly stated that there is no water in well, constructed over the suit property is old and electricity connection was disconnected 20 years ago. DW1-Surat Singh also admitted that the suit property is joint and had not been partitioned between the parties. DW-1 further stated that he had cut down the trees from land which have fallen to his share.

6. From the evidence led by both the parties, learned Court of First Instance has rightly concluded that the suit property is joint though both the parties are having equal separate possession over the suit property as per pleadings as well as evidence led by them. In view of fact that suit land is joint land and there is no evidence to the effect that DW-1 had cut down the trees from the area which is in exclusive possession of appellants-plaintiffs, learned Court of First Instance rightly rejected the suit of appellants-plaintiffs for permanent injunction.

7. Permanent injunction against co-sharer cannot be granted except in the case where a co-sharer is trying to oust other co-sharer(s) from the possession of joint property. In present case, DW-1 stated to have cut trees, situated on his share of the suit property. It is also the case of appellants-plaintiffs that both the parties are in exclusive possession of half share each. No evidence on the part of appellants-plaintiffs is available from where it can be concluded that trees were cut by DW-1 from the half portion in the exclusive possession of appellants-plaintiffs. No site plan/demarcation report has been placed by appellants-plaintiffs.

8. In above circumstances, I do not find any error in the findings of facts recorded by learned Courts below. No other question of fact or law

arises in present appeal.

9. Present regular second appeal is dismissed being without any merit.
10. Pending application(s), if any, stand disposed of.

(PARMOD GOYAL)
JUDGE

21.05.2026
Sunil Chander

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No