



RSA-2696-2025 (O&M)

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

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RSA-2696-2025 (O&M)

Date of decision :12.01.2026

HARNEK SINGH AND OTHERS**... APPELLANTS****VERSUS****GURBACHAN SINGH AND OTHERS****...RESPONDENTS****CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL**

Present: Mr. Talwinder Singh, Advocate
for the appellants.

PARMOD GOYAL, J.

1. The present second appeal has been preferred by the plaintiffs-appellants, who are aggrieved by the judgment and decree dated 25.03.2019 passed by the Additional Civil Judge (Senior Division), Jaitu, whereby their suit for declaration was dismissed, as well as by the impugned judgment and decree dated 15.05.2025 passed by the Additional District Judge, Faridkot, dismissing their first appeal.

2. The plaintiffs had sought a declaration to the effect that they, along with the defendant Nos. 1 to 3, are co-sharers in the land fully described in the plaint. They further sought a declaration that the sale deed dated 17.12.2012 executed by defendant No.1 in favour of defendant No.2 is illegal, null and void, and not binding upon their rights. A further declaration was sought that the sale deed dated 15.11.2013 executed by defendant No.2 in favour of defendant Surinder Pal Singh and others is also illegal, null and void and ineffective against the rights of the plaintiffs-appellants. It was pleaded that Gurbachan Singh-defendant No.1 was holding the suit land as Karta, as the property was



ancestral/HUF/coparcenary in nature.

3. It is the case of the plaintiffs-appellants that Jaswinder Kaur, daughter of Gurbachan Singh, and Jasmal Kaur, wife of Gurbachan Singh, had interest in the suit property during their lifetime. Jaswinder Kaur died in the year 2007 and Jasmal Kaur died in the year 2013, and both held 1/3rd share each in the suit property, while the remaining 1/3rd share belonged to Gurbachan Singh. It was asserted that upon the death of Jaswinder Kaur, her 1/3rd share devolved upon the plaintiffs and defendant No.3, who are her son and daughters of Jaswinder Kaur. It was further asserted that upon the death of Jasmal Kaur, her 1/3rd share was inherited by plaintiff Nos.1 to 3 and defendant Nos.1 to 3 in equal shares, thereby rendering the parties to be co-sharers in the suit land.

4. The plaintiffs further asserted that defendant No.1 was an aged person, more than 85 years old, illiterate and not in a sound disposing state of mind. Taking undue advantage of his condition, defendant No.2 allegedly got the sale deed dated 17.12.2012 executed in her favour from defendant No.1. It was also pleaded that Jagdev Singh, son of Bikkar Singh, was never adopted by Gurbachan Singh, and that defendant No.2 is falsely claiming Jagdev Singh, who is her husband, to be the adopted son of Gurbachan Singh.

5. The plaintiffs further contended that Paramjit Kaur-defendant No.2 wrongly executed the sale deed dated 15.11.2013 in favour of defendant Nos. 5 to 8 i.e. Surinder Pal Singh and others. Accordingly, they sought a declaration that the plaintiffs along with defendant No.3 are co-sharers in the suit land and that both sale deeds dated 17.12.2012 and 15.11.2013 are void and non operative against their rights.

6. It was asserted that the sale deeds were without consideration and fraudulent in nature, as neither any consideration was paid nor possession was



delivered in pursuance thereof. The sale deeds were allegedly executed only to defeat the rights of the plaintiffs-appellants and defendant No.3. Connivance among defendant Nos. 1, 2 and 4 to 7 was also alleged. It was further pleaded that the sale deeds are liable to be declared non est, having been executed during the pendency of litigation.

7. Defendant Nos.1 and 2, in their joint written statement, claimed that the suit property was exclusively owned by defendant No.1. The relationship of Jaswinder Kaur and Jasmail Kaur with defendant No.1 was admitted. However, it was asserted that the parties are not governed by Hindu Law but by custom, namely Riwaj-e-Aam Zimidara, being agriculturists. It was specifically denied that the suit land was ancestral or coparcenary property; rather, it was pleaded that the suit property was the self-acquired property of defendant No.1. It was further asserted that neither Jaswinder Kaur nor Jasmail Kaur had any right, title or interest in the suit property during their lifetime and, consequently, their successors acquired no right or share therein. Defendant Nos.1 and 2 further pleaded that Jagdev Singh, husband of defendant No.2, was validly adopted by defendant No.1. It was asserted that Jagdev Singh was treated and brought up by defendant No.1 and his wife Jasmail Kaur as their adopted son since childhood. It was pleaded that the ceremonies of adoption were duly performed when Jagdev Singh was a child, including the ceremony of giving and taking of the child in adoption in the presence of relatives and villagers, and sweets were distributed on the occasion. It was claimed that the natural parents of Jagdev Singh placed him in the lap of defendant No.1 and his wife, and since the date of adoption, Jagdev Singh has been treated as their son. It was further asserted that Jagdev Singh lived with his adoptive parents. It was further pleaded that out of love and affection, defendant No.1 executed a valid Will dated 02.02.1984, registered on 07.02.1984,



in favour of Jagdev Singh. On these premises, the claims of the plaintiffs were denied, asserting that the suit property being self-acquired, defendant No.1 had full right to alienate the same. Accordingly, defendant No.1 validly executed the sale deed dated 17.12.2012 in favour of defendant No.2, and in turn, defendant No.2 was fully competent to further transfer the property by executing the sale deed dated 15.11.2013 in favour of the defendant Nos. 5 to 8. Consequently, dismissal of the suit was prayed for.

8. Defendant No.3 supported the case of the plaintiffs and asserted that defendant No.1 had no right to execute the sale deeds in question. It was pleaded that the sale deeds are illegal, null and void and inoperative *qua* the rights of defendant No.3.

9. Defendant Nos.5 to 8, on the other hand, supported the stand taken by defendant Nos.1 and 2 and asserted that the sale deed executed in their favour by defendant No.2 is valid and lawfully executed.

10. From the pleadings of the parties, the following issues were framed:

1. *Whether the plaintiffs are entitled for the relief of declaration to the effect that plaintiffs along with defendants are co-owners of the suit land, as prayed for? OPP*
2. *Whether the suit land is joint Hindu Family and Coparcenery property in hands of defendant No. 1? OPP*
3. *Whether the sale deed dated 17.12.2012 alleged to be executed by defendant No.1 in favour of defendant No.2 is illegal, null and void and is liable to be set aside? OPP*
4. *Whether the sale deed dated 15.11.2013 alleged to be executed by defendant No. 2 in favour of defendants No. 5 to 8 is illegal, null and void and is liable to be set aside? OPP*
5. *Whether the parties to the suit are governed by custom commonly known as Rivazeam Zimidara? OPD (1, 2 and 4)*
6. *Whether defendant No. 4 is adopted son of defendant No.1?*



OPD (1, 2 and 4)

6A. *Whether Gurbachan Singh executed a Will dated 02.02.1984 registered on 07.02.1984, if so, its effect? OPD*

7. *Whether the plaintiffs have no cause of action to file the present case? OPD*

8. *Relief.”*

11. The simple case of the plaintiffs-appellants is that the suit property was joint ancestral/HUF/coparcenary property in the hands of defendant No.1 along with the mother of the plaintiffs and defendant No.3, namely Jaswinder Kaur and also with their maternal grandmother, Jasmail Kaur. Upon the death of their mother, Jaswinder Kaur, and subsequently upon death of their maternal grandmother, Jasmail Kaur, the plaintiffs claims to have succeeded to the shares vested in them and, therefore, assert themselves to be co-sharers in the suit property. On the other hand, the case set up by defendant Nos.1 and 2 is that the suit property was the exclusive and self-acquired property of defendant No.1, who validly sold part of the same to defendant No.2, who in turn further alienated part thereof in favour of defendant Nos.5 to 8.

12. The moot question, therefore, is with regard to the nature of the suit property, namely, whether it was ancestral/HUF/coparcenary property in which Jaswinder Kaur and Jasmail Kaur had any right, title or interest.

13. In order to determine whether the suit property was ancestral or coparcenary property in the hands of Gurbachan Singh (defendant No.1), it is necessary to examine whether the property devolved upon him through three lineal male ancestors. Admittedly, the suit property came into the hands of defendant No.1 by way of mutation No.1356 (Ex.D-24) on the basis of a registered Will dated 24.08.1973. Gurbachan Singh (defendant No.1), along with



Bikkar Singh, Surjit Singh and Smt. Mahla, wife of Bhagat Singh, inherited the suit property in accordance with the said registered Will.

14. Once defendant No.1 acquired the suit property by way of testamentary succession, it cannot be held that he received the same through four male lineal ancestors. Consequently, the property in his hands would be self-acquired in nature and it would not be ancestral or coparcenary property. Both the Courts below have, therefore, rightly held that the suit property in the hands of defendant No.1 was self-acquired property, having been got by way of a Will.

15. Reliance placed by the Courts below on the judgments in ***Mohinder Kaur v. Pargat Singh and others***, 2010 (92) AIC 836; ***C.N. Arunachala Mudaliar vs. C.A. Muruganatha Mudaliar and another***, AIR 1953 SC 495; ***Harnek Singh vs. Sukhdev Singh***, 2001 (4) RCR (Civil) 411; ***Indar Singh vs. Gulzara Singh and others***, AIR 1951 Punjab 345; and ***Sheela Devi vs. Lal Chand and another***, 2006 (4) RCR (Civil) 912; has been rightly made to conclude that the suit property in the hands of defendant No.1 was self-acquired property.

16. There is no infirmity in the findings recorded by the learned Courts below that since defendant No.1 acquired the suit property by virtue of a Will executed by his father, along with his brother and mother, the property could not be held to be ancestral/HUF/coparcenary property in his hands and was required to be treated as self-acquired. Consequently, neither Jaswinder Kaur nor Jasmail Kaur had any right, title or interest in the suit property along with Gurbachan Singh. Since Jaswinder Kaur and Jasmail Kaur were not coparceners or co-sharers with defendant No.1 in respect of the self-acquired property, no right devolved upon the plaintiffs or defendant No.3 upon their deaths. Once it is held that the suit property was the self-acquired property of defendant No.1, the plaintiffs and defendant No.3 have no locus standi to challenge the alienation of the same in



favour of defendant No.2 or subsequent vendees, as they had no subsisting right or interest in the suit property. In fact, the plaintiffs and defendant No.3 are not claiming their rights through defendant No.1; rather, they claim independent rights through their mother and maternal grandmother, to the exclusion of defendant No.1. Once it stands concluded that the mother and maternal grandmother had no right in the suit property, the plaintiffs and defendant No.3 lose all authority to challenge the sale deeds executed either by defendant No.1 or by defendant No.2.

17. Both the Courts below have correctly appreciated the settled legal position regarding ancestral and coparcenary property and have rightly held defendant No.1 to be the exclusive owner of the suit property, which was found to be self-acquired. No substantial question of law arises for consideration in the present second appeal.

18. Accordingly, the appeal being devoid of merit, hence dismissed.

19. Pending miscellaneous application(s), if any, also stand(s) disposed of accordingly.

12.01.2026
manoj

(PARMOD GOYAL)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No