

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

(231)

RSA-5053-2012(O&M)
Date of Decision: 11.05.2026

Rameshwar

--Appellant

Versus

Rohtash Soni & Ors.

--Respondents

CORAM:- HON'BLE MR. JUSTICE PANKAJ JAIN.

Present:- Mr. C.P. Tiwana, Advocate for
Mr. R.S. Chahar, Advocate for the appellant.

Respondents no.2, 3(i), (ii) & 5 proceeded
ex parte vide order dated 18.07.2014.

Mr. S.P. Chahar, Advocate for respondent no.4.

PANKAJ JAIN.J (Oral)

1. Plaintiff is in second appeal aggrieved of the judgement and decree passed by the courts below.
2. Plaintiff filed a suit seeking possession by way of partition by metes and bounds of an ancestral house claiming himself to be a co-sharer to the extent of 1/7th share.
3. Defendants resisted the suit primarily on the ground that the suit was bad for partial partition as there is another residential house comprised in Khewat No.332/299 min Khatoni No.384 Rect. No.45 Killa No.12/1/2 measuring 2 marlas being used as *Gadha Khad*. The courts below non-suited the plaintiff holding that the suit was bad for partial partition as the plaintiff failed to include *Gadha Khad* and other residential properties jointly owned by the parties.
4. Learned counsel appearing on behalf of the appellant has assailed the findings recorded by the courts below. He submits that the

specific case of the plaintiff is that the property mentioned by the defedants is the self acquired property of the plaintiff having purchased the same from Sheo Ram. In order to prove the same, he examined Bhale Ram son of Sheo Ram. He appeared as PW-2 and testified that the property was purchased by the plaintiff for Rs.550/-. He further submits that land comprising *Gadha Khad* is owned by Gram Panchayat. The family only has right to utilize the same. The same being not estate, cannot be partititoned.

5. Learned counsel appearing on behalf of respondent no.4 submits that pure findings of facts have been recorded by the courts below. The courts below rightly non-suited the plaintiff for having not included the other residential property jointly owned by the parties.

6. I have heard learned counsel for the parties and have carefully gone through the paper book.

7. The sole issue that requires consideration of this Court is;
“whether the suit filed by the plaintiff can be said to be bad for partial partition?”

8. The plea raised by the defendants is that there is another residential property jointly owned by the parties to the lis. Plaintiff has led evidence to prove that though the property was purchased during the lifetime of the father but was exclusively purchased by him. In order to prove the same, he has examined son of Vendor as PW-2. Burden shifted upon the defendants to prove jointness of the property even if the parties are joint in mess, there is no presumption with respect to jointness of property. Thus, the onus laid heavily upon the defendants to prove that the property excluded from the lis by the plaintiff, was jointly owned. There being no

evidence to prove the same, this Court finds that the courts below erred in non-suiting the plaintiff holding the suit bad for partial partition.

9. Accordingly, the present appeal is allowed. Judgements and decree passed by the courts below are hereby set aside. The matter is remanded back to the Trial Court to decide afresh, in accordance with law.

10. Pending misc. application(s), if any, shall also stand disposed off.

11. The parties shall appear before court of first instance on 08.07.2026.

(PANKAJ JAIN)
JUDGE

11.05.2026

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No