



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

RSA-2793-2018 (O&M)

Reserved on : 20.02.2026

Pronounced on : 25.02.2026

Judgment uploaded on : 25.02.2026

Whether only the operative part of the judgment is pronounced or whether the full judgment is pronounced: Full

RAJINDER SINGH

....Appellant

Versus

RAJBIR AND OTHERS

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Anuj Balian, Advocate for the appellant.

ALKA SARIN, J. (Oral)

CM-7246-C-2018

1. For the reasons mentioned therein, the application seeking condonation of 278 days delay in filing the present regular second appeal is allowed. The delay of 278 days delay in filing the present regular second appeal is condoned.

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2. The present regular second appeal has been preferred by the defendant No.1-appellant challenging the judgments and decrees dated 31.08.2013 and 20.01.2017 passed by the learned Trial Court and the learned First Appellate Court, respectively.

3. Briefly stated the facts relevant to the present lis are that the plaintiff-respondents filed a suit for possession by way of partition and for permanent injunction. It was averred that the common ancestor of the parties – Mam Chand – had left behind the suit property in which the plaintiff-

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respondents had 1/5 share. The parties, except plaintiff No.1, had their houses in the suit property and that the plaintiff-respondents were entitled to 180 sq. yards whereas they were in possession of only 96 sq. yards and the plaintiff No.1 was not in possession of any part of the suit property. Hence, the suit. The defendants appeared and contested the suit. In the written statement preliminary objections of locus-standi, maintainability, limitation, suppression of material facts, non-joinder and mis-joinder of necessary parties, estoppel, etc. It was the stand taken that the suit property was mutually partitioned in the year 1964 vide which Lal Chand son of Mam Chand (predecessor of the plaintiff-respondents) had separated himself by taking his 125 sq. yards in suit property - 63 sq. yards in front and the remaining on the back side. Later the same land was sold by plaintiff Nos.1 and 2 to defendant No.2 (Sarup Singh son of Mam Chand) for a sale consideration of Rs.6300/-. Thereafter, another family settlement took place amongst the remaining sons of Mam Chand i.e. Om Parkash, Rajinder and Sarup Singh all sons of Mam Chand and since then the parties are residing as owners and there is no joint land amongst them.

4. Replication was not filed. On the basis of the pleadings of the parties the following issues were framed :

1. Whether the plaintiffs are entitled to a decree for possession by way of partition ? OPP
2. Whether the Local Commissioner has not given actual existing position on the spot in his report ? OPD
3. Whether the plaintiffs have no locus standi to file the present suit ? OPD

4. Whether the plaintiffs are not co-sharers in suit property ?

OPD

5. Whether the plaintiffs have not come to the court with clean hands ? OPD

6. Whether the suit of plaintiffs is barred by time ? OPD

7. Whether the suit of plaintiffs is bad for mis-joinder and non-joinder of necessary parties ? OPD

8. Relief.

5. The Trial Court decreed the suit vide judgment and decree dated 31.08.2013 holding that the plaintiff-respondents were owners to the extent of 1/5 share. Aggrieved by the same an appeal was preferred by all the defendants which appeal was also dismissed by the learned First Appellate Court vide judgment and decree dated 20.01.2017. Hence, the present regular second appeal only by the defendant No.1.

6. Learned counsel for the defendant No.1-appellant contended that both the Courts have erred in decreeing the suit. It is urged that the plaintiff-respondents did not prove the title of the suit property nor identified the same and as such their suit deserved to be dismissed.

7. Heard.

8. In the present case the argument of the learned counsel for the defendant No.1-appellant disputing the ownership of the suit property and its identity cannot be accepted. The learned First Appellate Court found that this was a new plea not supported by any pleadings nor was any issue framed regarding the title and ownership of the suit property. It is well settled that a factual plea not supported by any pleadings and evidence cannot be

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considered. Learned counsel has not been able to point towards any such plea being raised in the written statement. None of the issues framed include any such plea. The findings recorded by both the Courts are supported by the evidence available on the record and there is no ground made out for disturbing the concurrent findings of fact recorded by both the Courts. No other point was argued.

9. In view of the above, I do not find any merit in the present appeal. No question of law, much less any substantial question of law, arises for determination in the present case. The appeal being devoid of any merits is accordingly dismissed. Pending applications, if any, also stand disposed off.

25.02.2026
Ankur Goyal

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No