



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

(113)

RSA-1285-2020 (O&M)

Date of Decision: 16.02.2026

Ranjit Kaur and Another**... Appellants****Versus****Narinder Singh Khatra and others****...Respondents****CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL**

Present :- Mr. Rajinder Goel, Advocate
for the appellants

Mr. Sumeet Mahajan, Senior Advocate
with Mr. Shrey Sachdeva, Advocate and
Ms.Prerna, Advocate and
Mr. Shiv Pratap, Advocate and
for Caveator/Respondent No. 1 and 2.

VIRINDER AGGARWAL, J. (Oral)

1. Appellants/Plaintiffs filed this regular second appeal against the concurrent judgments of the Courts below, whereby the suit filed by the Appellants/Plaintiffs for Declaration and permanent injunction was dismissed by judgment and decree dated 20.05.2015 passed by the learned Trial Court and appeal was dismissed by the First Appellate Court vide judgment and decree dated 17.07.2019.

2. Briefly stated, Appellants/plaintiffs filed suit for declaration that property in dispute was Ancestral and Joint Hindu family coparcenary property in hands of Gurdial Singh (father of plaintiffs and defendant no. 1, 3 and 4) and that the judgment and decree dated 02.12.1991 in suit titled as “Narinder Singh Vs. Gurdial Singh” in favour of defendant no 1. is not binding on the rights of the appellants-plaintiffs qua suit property.

Respondents/Defendants No.1 and 2 controverted the fact that the suit



property was Ancestral and Joint Hindu coparcenary property.

3. From the pleadings of the parties, following issues were framed by the learned Trial court:

- 1. Whether plaintiffs are entitled for relief of declaration as prayed for? OPP*
- 2. Whether plaintiffs are entitled for relief of permanent injunction as prayed for? OPP*
- 3. Whether the suit is not maintainable? OPD*
- 4. Whether the plaintiffs have no cause of action and locus standi to file this suit? OPD*
- 5. Whether the suit is time barred? OPD*
- 6. Whether the suit is not properly valued for the purpose of court fee and jurisdiction? OPD*
- 7. Relief*

4. After hearing arguments, the suit was dismissed by the Additional Civil Judge (Senior Division), Samana as Appellants/Plaintiffs had failed to prove that the suit property was ancestral and Joint Hindu coparcenary property standing in the name of Gurdial Singh and that no details of the fraud and misrepresentation have been pleaded in the plaint.

5. Aggrieved by the judgment so passed, the appeal was filed. Additional District Judge, Patiala dismissed the appeal and affirmed the judgment and decree passed by the learned trial Court. Aggrieved by the dismissal of the appeal, the present appeal has been filed.

7. The learned counsel for the Appellants-Plaintiffs contended that the property in dispute constituted Joint Hindu Family ancestral coparcenary property in hands of Gurdial Singh. Consequently, upon the coming into force of the amended Section 6 of the Hindu Succession Act, the daughters became coparceners by birth with the same rights as sons, and were entitled to equal share. It was further argued that the consent decree dated 2.12.1991 suffered



in favour of defendant No.1 Narinder Singh was ineffective in law, as he had no pre-existing right in the property and the decree, being unregistered, could not confer any right, title, or interest. On this basis, it was urged that the learned Trial Court erred in ignoring the legal position and in denying declaration in favour of the plaintiffs.

8. Per contra, learned counsel for Caveator/ respondent no. 1 and 2 argued that the plaintiffs had failed to prove that the property was ancestral coparcenary property or that they had any right in the same during lifetime of Gurdial Singh and were estopped by their conduct from challenging the consent decree and transfer. It was submitted that Arjan Singh had executed a gift deed in favour of Gurdev Singh and Gurdial Singh and had also suffered a consent decree and executed a Will in favour of his sons, thereby conferring rights upon them and making the property self-acquired in the hands of Gurdial Singh. It was prayed that the both courts below had rightly appreciated the evidence and law, and the appeal deserved dismissal.

9. I have heard learned counsel for the appellants and respondent with due thoroughness and have undertaken a meticulous and comprehensive examination of the entire record.

10. As regards the scope of second appeal, it is now a settled proposition of law that in Punjab and Haryana, second appeals preferred are to be treated as appeals under Section 41 of the Punjab Courts Act, 1918 and not under Section 100 CPC. Reference in this regard can be made to the judgment of the Supreme Court in the case of *Pankajakshi (Dead) through LRs and others V/s Chandrika and others, (2016)6 SCC 157*, followed by the judgments in the case of *Kirodi (since deceased) through his LR V/s Ram*



Parkash and others, (2019) 11 SCC 317 and Satender and others V/s Saroj and others, 2022(12) Scale 92. Relying upon the law laid down in the aforesaid judgments, no question of law is required to be framed.

11. The principal question which arises for consideration is whether the Plaintiffs-Appellants have been able to establish that the suit property was Joint Hindu Family ancestral coparcenary property in the hands of Gurdial Singh, consequently render the consent decree dated 02.12.1991 and subsequent transfer illegal and ineffective.

12. Both the Courts below have concurrently held against the plaintiffs on this aspect. The Courts below, on a proper appreciation of oral as well as documentary evidence, has recorded a finding that the plaintiffs failed to prove the ancestral coparcenary nature of the property. The evidence on record shows that the property did not devolve upon Gurdial Singh by natural succession in the ordinary course, but came to him through specific transactions executed by his father Arjan Singh, including a gift deed, an earlier consent decree and testamentary disposition, followed by mutation entries in pursuance thereof. Once the property was acquired by virtue of such transfers, the same could not automatically assume the character of ancestral property in the hands of Gurdial Singh. In the absence of proof of its ancestral character, the plaintiffs could not claim any right therein by birth.

13. Moreover, the contention put forth on behalf of the plaintiffs-appellants qua the consent decree dated 02.12.1991 is liable to be repelled on account of the specific proviso to Section 6 of the Hindu Succession Act, 1956. The Hon'ble Supreme Court in the judgment of **Vineeta Sharma vs. Rakesh Sharma and others 2020 (9) SCC 1**, has held that any alienation,



disposition, partition, or testamentary disposition of coparcenary property that took place before 20.12.2004 remains valid and is not affected by the Hindu Succession (Amendment) Act, 2005. The Apex Court clarified that the amended Section 6 does not have retrospective effect to invalidate or reopen such prior alienations, as they are expressly saved by the proviso to Section 6(1) and Section 6(5) of the Hindu Succession Act, 1956. In the present case the said consent decree having been suffered and acted upon prior to the enforcement of the amended provisions, the same cannot be reopened so as to confer any right upon the plaintiffs on the basis of the amendment, and consequently, no benefit can be derived therefrom to challenge the validity of the said decree.

14. In view of the above discussion, this Court finds no infirmity, perversity or illegality in the concurrent judgment and decree passed by the courts below. Therefore it does not warrants any interference by this court.

15. Accordingly, the present appeal is devoid of merits and is hereby dismissed.

16. Since the main appeals stand decided, the miscellaneous application(s), if any, stand also disposed of.

16.02.2026

KV

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking?
Whether reportable?

Yes / No
Yes / No