

2026:PHHC:070611



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

RSA-3163-2025 (O&M)
Date of Decision: 06.05.2026

KULDIP SINGH AND ANOTHER

....Appellants

Versus

MAHAVIR SINGH AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. S.S. Grewal, Advocate
Mr. Anmol Karan S. Sidhu, Advocate
for the appellants.

PARMOD GOYAL, J. (ORAL)

Appellants/defendants are aggrieved by judgment and decree dated 15.05.2019, passed by learned Civil Judge (Junior Division), Mukerian, District Hoshiarpur whereby suit of respondents/plaintiffs for permanent injunction with regard to land comprised in khewat No.128/199, khatoni No.146, khasra No.20//25/1/2 (2-18) situated at Village Mana, H.B. No.267, Tehsil Mukerian, District Hoshiarpur was decreed and by judgment and decree dated 22.05.2025, passed by learned Additional District Judge, Hoshiarpur, whereby first appeal preferred by appellants/defendants was dismissed.

2. In the suit for permanent injunction respondents/plaintiffs claimed themselves to be exclusive owners in possession of khasra No.20//25/1/2 (2-18) and claimed that appellants/defendants are strangers and have no right to interfere in the peaceful possession of

respondents/plaintiffs over the said suit land. However, since appellants/defendants are interfering in the peaceful possession of respondents/plaintiffs, hence suit for permanent injunction was preferred.

3. The suit was contested by appellants/defendants by taking number of preliminary objections with regard to maintainability etc. On merits, it was asserted that respondents/plaintiffs along with appellant/defendant No.1 are joint owners in the suit land. It was asserted that it was appellant/defendant No.1 who was in possession over the suit land and the alleged partition by respondents/plaintiffs was got *ex parte* and they have already filed appeal against the partition before the Hon'ble Punjab and Haryana High Court. It was asserted that the house of appellants/defendants as well as tubewell bore installed by Naseeb Singh are existing on the suit property for the last 15-16 years. The property was asserted to be in joint ownership and joint possession and accordingly, dismissal of suit was prayed for.

4. From the pleadings of parties, followings issues were framed :-

1. Whether the plaintiffs are entitled to the relief of permanent injunction as prayed for ? OPP
2. Whether the suit of the plaintiff is maintainable ? OPP
3. Whether the plaintiffs has concealed the true and material facts from the Court ? OPD
4. Whether the plaintiff has no cause of action to file the present suit ? OPD
5. Relief.

5. Learned Courts below have duly noticed that claim of respondents/plaintiffs over khasra No.20//25/1/2 measuring 2 kanals 18

marlas is based upon order dated 18.11.2010 passed by Court of Tehsildar-cum-Assistant Collector, Grade-I, Mukerian (Ex.P4), whereby the suit land which was part of khasra No.20//25/1 was bifurcated in two parts i.e. khasra No.20//25/1/2 (2-18) and khasra No.20//25/1/1 (2-11) and khasra No.20//25/1/2 was allotted to respondents/plaintiffs, whereas khasra No.20//25/1/1 had fallen into the share of appellants/defendants. The Courts below have also taken note of the fact that appeal dated 14.02.2012 passed by the Court of Sub-Divisional Magistrate-cum-Collector Mukerian (Ex.P8) against order dated 18.11.2010 was filed and was dismissed. Both the Courts below have accordingly concluded that suit land stood partitioned and has not remained joint, once it has been partitioned by revenue authorities having jurisdiction over the same. Further it was held that as per revenue records suit property was shown to be *chahi* land and, therefore, partition was held to be within jurisdiction of revenue authorities. Accordingly, on the basis of partition between the parties, respondents/plaintiffs were held owners in possession of suit property falling in khasra No.20//25/1/2.

6. On consideration, I do not find any error in the conclusion drawn by learned Courts below that suit property stood partitioned and suit property comprised in khasra No.20//25/1/2 had fallen to the share of respondents/plaintiffs exclusively and is in their possession. Therefore, appellants/defendants have no right to interfere with the ownership and possession of respondents/plaintiffs and Courts have rightly enjoined appellants/defendants from interfering in the ownership and possession of suit property. The question whether partition proceedings held before revenue authorities are *non est* and not binding upon the rights of appellants/defendants cannot be gone into the present suit and can only be

decided by revenue authorities as suit land was agricultural land at the time of its partition. In the jamabandi it was shown to be *chahi* land and, therefore, revenue authorities were within their jurisdiction to affect the partition between the parties.

7. Faced with above, learned counsel for appellants/defendants has placed reliance upon defence taken by respondents/plaintiffs who happens to be defendants in Civil Suit No.376 of 2015 preferred by appellant/defendant-Kuldeep Singh for declaration and permanent injunction. The said suit was decided by judgment and decree dated 14.11.2019, whereby respondents/plaintiffs (defendants in Civil Suit No.376 of 2015) were enjoined from interfering in possession of present appellants/defendants over khasra No.130 and 131. Appellants/defendants have preferred an application for placing the same on record by moving application under Order XLI Rule 27 CPC along with appeal. It is the case of appellants/defendants that present respondents/plaintiffs who were defendants No.1 to 6 in the said suit had taken the plea that khasra No.20//25/1 stands already partitioned 60-70 years back and thereafter, parties have raised construction over the suit property. They have also made reference to partition affected by Tehsildar-cum-Assistant Collector, Grade-I, Mukerian in the year 2010 and claimed that land is not joint between the parties. It was asserted therein that respondents/plaintiffs have raised construction over khasra No.20//25/1 which is comprised of 4 kanals 14 marlas out of which 1 kanal 10 marlas was sold by respondents/plaintiffs and remaining 3 kanals 4 marlas respondents/plaintiffs have constructed their residential house which they have not disclosed. The above statement made by respondents/plaintiffs in their written statement is being used as

admission to claim that entire khasra No.20//25/1 is owned and possessed by appellants/defendants, however, the contention on behalf of appellants/defendants is liable to be rejected as appellants/defendants are trying to take benefit of only one part of written statement totally out of context of the facts of present case. Appellants/defendants are trying to wriggle out of their own admission made in the present case. In present case, appellants/defendants have claimed that suit property is joint property in joint possession of parties. When appellants/defendants are themselves claiming joint ownership and joint possession over suit property, they cannot claim it to be their exclusive property on the basis of out of context statement made in another suit where khasra No.20//25/1 was not even subject matter against their own admission made in present suit.

8. Admittedly, Civil Suit No.376 of 2015 was filed in 2015. The partition of land had already taken place as per respondents/plaintiffs in the year 2010 under the orders of Tehsildar-cum-Assistant Collector, Grade-I, Mukerian. The order was duly placed on record by respondents/plaintiffs as Ex.P4 and has been accepted to be an order binding on both the parties. Appeal against order dated 18.11.2010 preferred by appellants/defendants was also dismissed by Collector vide Ex.P8. Even in the Civil Suit No.376 of 2015 respondents/plaintiffs have clearly stated that suit land was initially orally partitioned 60-70 years back and further it was also partitioned by revenue authorities in 2010 under the orders of Tehsildar-cum-Assistant Collector, Grade-I, Mukerian. Therefore, entire written statement of respondents/plaintiffs filed in Civil Suit No.376 of 2015 has to be read as one and one part cannot be taken out of context. Even in written statement in Civil Suit No.376 of 2015, respondents/plaintiffs have clearly stated that suit

property stood partitioned by revenue authorities in 2010, therefore, no benefit would accrue to appellants/defendants on the account of written statement, wherein respondents/plaintiffs have stated that appellants/defendants has also raised construction on the remaining part of land comprised in khasra No.20//25/1. This has to be read keeping in view partition already affected on 18.10.2010 by the revenue authorities which finds due mention in revenue records. Even in the suit preferred by respondents/plaintiffs which was filed on 01.07.2015 giving rise to the present appeal, respondents/plaintiffs had duly claimed partition and had sought injunction on the basis of partition affected by revenue authorities vide order dated 18.11.2010. Civil suit bearing No.376 of 2015 was filed subsequently on 27.08.2015 and, therefore, written statement filed by respondents/plaintiffs in said suit is of no help to the case of appellants/defendants. The judgment sought to be adduced, therefore, is of no help to the case of appellants/defendants.

9. There is no merit in the present appeal. No question of law or fact arises. Finding of learned Courts below is affirmed. Appeal as well as application for additional evidence are dismissed.

10. Pending application(s), if any, is/are disposed of accordingly.

06.05.2026
chiranjeev

(PARMOD GOYAL)
JUDGE

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No