

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****146****RSA-43-2025 (O&M)****Date of decision: 16.04.2026****Rajpal through his LRs and others****...Appellant(s)****Vs.****Kishori Lal through his LRs and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Kartikeya Swaroop Mehta, Advocate
for the appellants.

*********NIDHI GUPTA, J.**

Plaintiff is in second appeal against the concurrent judgments and decrees of the District Courts, whereby suit filed by the plaintiff for joint possession and declaration, has been dismissed by both the District Courts.

2. Brief facts of the case are that the plaintiff had filed instant Civil Suit dated 04.02.1993 seeking declaration as owner in joint possession of suit land/agricultural land measuring 11K 12M as described in the plaint on the ground that the said suit land was Ancestral Joint Hindu Family Coparcenary Property; and for setting aside the Sale Deeds dated 30.08.1985, 07.06.1988, and 3 other Sale Deeds each dated 13.05.1994.

3. It was the pleaded case of the appellant that he is the son of defendant No.1, who had died during the pendency of the suit. As per the plaintiff, suit property was owned by Ram Rattan, grandfather of the



plaintiff. The suit property was Joint Hindu Family property of Ram Rattan, his sons and grandsons. Defendant No.1 Kishori Lal and his brother Dharam Parkash being sons of Ram Rattan, had affected an oral partition of Joint Hindu Family Properties through an Award dated 19.07.1943 given by Arbitrator. The said Award was registered on 29.10.1943. It was the contention of the plaintiff that there was huge agricultural land belonging to Joint Hindu Family of Ram Rattan, which was not made subject matter of the Award. Out of total agricultural land of Joint Hindu Family Kishori Lal and his son i.e. the plaintiff became owner of 27K 12M. After the death of Kishori Lal, half share was inherited by all his legal heirs including the plaintiff. It was alleged that defendants No. 2 to 4 had influence over defendant No.1 and they intended to deprive the plaintiff of his valuable rights over the suit property. Sale Deeds were challenged on the ground that suit land was ancestral, and the said Sale Deeds have been executed by Kishori Lal without legal necessity. It was pleaded that plaintiff being coparcener had a right by virtue of birth in the Ancestral Joint Hindu Family Coparcenary Property. It is further stated that plaintiff came to know about the alleged Sale Deeds only in the year 1993. Accordingly, present suit was filed on 04.02.1993.

4. Upon appraisal of the pleadings and the evidence led by the parties, the learned Additional Civil Judge (Senior Division), Jagraon had dismissed the suit of the plaintiff with costs vide judgment and decree dated 31.03.2016. The Civil Appeal filed by the plaintiff was dismissed with costs by the Additional District Judge, Ludhiana vide judgment and



decree dated 04.10.2024. Hence, the present second appeals by the plaintiff.

5. It is *inter alia* submitted by learned counsel for the appellant that learned District Courts were in error in non-suiting the appellant as they failed to appreciate that through the Arbitration Award in 1943 partition was affected only with respect to some urban properties for the purposes of residential needs; whereas remaining Agricultural lands were not partitioned and always remained Joint Hindu Family Property/Ancestral property. Thus, it has been wrongly concluded by the Courts below that after the partition, the property had lost the character of Joint Hindu Family coparcenary property. This is a contradictory finding in as much as it accepts character of Joint Hindu Family Coparcenary property at one point of time which lost its character as such following partition of a part of those properties and at another place it holds that Joint Hindu Family Coparcenary nature of suit property could not be proved.

6. It is submitted that in giving the impugned findings, the learned District Courts did not properly peruse or consider the plethora of documentary evidence in the shape of Jamabandis Ex.P1 to Ex.P37 and PW30/A to PW37/A brought on record by the plaintiff which clearly establish Joint Hindu Family Coparcenary character of suit properties. It is contended that learned District Courts held that only because appellant had been residing separately from Kishori Lal, there was cessation of character of Joint Hindu Family Property. It is argued that learned District



Courts failed to properly appreciate that Kishori Lal had forsaken and abandoned his wife and mother of the appellant, and started living with another muslim lady, namely, Bashira in a separate house without forsaking his religion. It is contended that such an immoral act does not lead to cessation of character of Joint Hindu Family and properties owned by such Hindu Family property. It is submitted that absence of the appellant at the time of cremation of his father Kishori Lal has been wrongly interpreted by the learned District Courts. It is contended that due to action of Kishori Lal, there were strained relations between the plaintiff and Kishori Lal.

7. It is accordingly prayed that present Appeal be allowed; and the impugned judgments and decrees of the Id. District Courts be set aside.

8. I have heard learned counsel for the appellants and perused the case file in a great detail. I find no merit in the submissions advanced on behalf of learned counsel for the appellants.

9. A perusal of record of the case shows that it is undisputed fact on record that joint properties of Ram Rattan inherited by his sons i.e. defendant No.1 Kishori Lal, father of the plaintiff; and his brother Dharam Parkash, were partitioned vide Arbitration Award dated 19.07.1943 Ex.P1, which was registered on 29.10.1943. The said Arbitration Award stands duly proved from attesting witness PW1 Yamuna Dass as Ex.P-1; and by PW3 Jagjit Singh, Registration Clerk as Ex.PW3/1.



10. Plaintiff has also been unable to prove the ancestral nature of the suit property in as much as plaintiff has been unable to demonstrate the devolution of suit property, through three male lineal descendants. The plaintiff has referred to Jamabandi Ex.P1 to Ex.P37 which show that as per Jamabandi for the year 1992-1993, property is reflected to be joint property of Kishori Lal and Dharam Parkash. However, there is no evidence whatsoever brought on record by the plaintiff to show that how any part of the property devolved upon Udho Ram grandfather of Kishori Lal. In any event, joint property having been admittedly partitioned by 2 brothers i.e. Kishori Lal and Dharam Parkash in 1943, the said property would lose its ancestral character. Furthermore, appellant has brought nothing to the notice of this Court to show that all properties were not partitioned vide the said Award. Appellant has not been able to point out any evidence led by him to establish that only some properties were partitioned.

11. The record further reveals that plaintiff has made much of the admissions made by defendants No. 8 to 10 in their written statements that certain proprieties of Kishori Lal was ancestral in nature. However, firstly as discussed above, plaintiff has been unable to demonstrate the same. Secondly, statements of defendants No. 8 to 10 are not of much significance as they are not the members of the family of Kishori Lal and are only subsequent purchasers of the suit property.

12. This fact is further clinched from the admissions made by the plaintiff himself while appearing as PW5. Plaintiff as PW5 has admitted in



is cross-examination that the property came to Kishori Lal/defendant no.1 from his grandfather Lala Kanshi Ram; and that most of properties had been purchased by said Lala Kanshi Ram. Plaintiff also admitted that some agricultural land was received by Kishori Lal and Dharam Parkash by way of gift from their mother Bhagwanti. Thus, from the aforesaid admissions made by the plaintiff himself during his cross-examination, it is irrevocably established that no property in the hands of defendant No.1 was coparcenary in nature.

13. Further, although plaintiff has deposed that he used to serve his father and also performed his last rights of his father, however in cross-examination, plaintiff has admitted that he used to reside 3-4 houses away from the house of his father/defendant No.1. Plaintiff has also admitted in his cross-examination that he was not present at the funeral ceremony of his father as he was not informed about his death. This fact is proved from the evidence of PW3 Manju Mandal/defendant No.4 who has proved the Receipt Ex.PW3/F with respect to last rites of Kishori Lal having been performed by DW3 and defendant No.2 Sheela, at Noida. Clearly, therefore, once plaintiff has been unable to establish the ancestral nature of the suit property, it cannot be said that the impugned Sale Deeds could not have been executed, except for legal necessity.

14. In any event, suit of the plaintiff was clearly barred by limitation as plaintiff has sought to challenge the Sale Deeds of the years 1985, 1988 by way of Civil Suit filed in 1993; whereas the other 3 impugned Sale Deeds dated 13.5.1994 were executed during the



pendency of the suit. No plausible reason has been given or sufficient cause has been shown by the plaintiff to explain the said delay. Even there is nothing discernible from the record as to how plaintiff gained knowledge of the said Sale Deeds. Rather, from the record, it was shown that defendant No.1 had acknowledged the impugned transaction of sale during his lifetime by resisting claim of the plaintiff through his written statement. Therefore, it was not believable that the plaintiff was not aware that the said Sale Deeds had been executed.

15. Even further, defendant had proved the Will dated 23.01.1992 Ex.P2 executed by defendant No.1 by examining DW2 Surinder Singh, attesting witness of the said Will; and by examining DW7 Jatinder Kumar Gupta, Scribe of the said Will. As per the said Will, the entire property of defendant No.1 was bequeathed to his second wife and their daughter. It is not surprising that there were bitter relations between the plaintiff and his father/defendant No.1 which is also evident from the recital in the Will Ex.P2 to the effect that testator had stipulated therein that plaintiff should not even touch the dead body of the testator. In any event, defendant No.1 having been proved to be the exclusive owner of the suit property, he was competent to dispose of the same as he chose fit.

16. Furthermore, suit was bad for non-joinder of necessary parties as the plaintiff had failed to implead Pawan Kumar and his sons. Said Pawan Kumar being other son of Ram Rattan and an alleged coparcener. Even the other purchasers of agricultural land as depicted in

Jamabandis Ex.PW8/1 to PW8/7 have not been impleaded; nor Sale Deeds executed in their favour were challenged. Furthermore, defendants No. 8 to 10 were held to be bonafide purchasers of the suit land as execution of Sale Deeds in their favour, was not in dispute and their vendors had acknowledged their ownership over the suit property through their pleadings.

17. Learned counsel for the appellant is unable to controvert or dispute the above said facts and findings.

18. In view of the above, no ground is made out to interfere in the impugned judgments and decrees of the learned District Courts. The present Regular Second Appeal is hereby **dismissed**.

19. Pending applications, if any, stand disposed of.

16.04.2026

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No