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

CR-6115-2025

Date of decision :10.09.2025

MOHINDER SINGH AND OTHERS

... APPELLANTS

VERSUS

BHAG SINGH (DECEASED) THROUGH LRS AND OTHERS

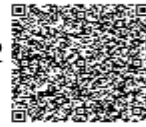
...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Sunny K. Singla, Advocate
for the petitioner.

PARMOD GOYAL, J. (ORAL)

1. The petitioners are aggrieved by the order dated 07.07.2025 (AnnexureP-4) passed by the Civil Judge (Junior Division), Malerkotla whereby the objections preferred by the petitioners-objectors under Order XXI Rule 58 and 90 read with Section 151 of the Code of Civil Procedure, 1908, were dismissed.
2. The petitioners, being aggrieved by proceedings being taken by executing court had preferred objections being a third party in execution proceedings initiated by the plaintiff-decree holder whereby plaintiff-decree holder was seeking execution of judgment and decree dated 15.11.1985.
3. Since the present objections have been preferred by the petitioners as third parties to the execution proceedings. It is pertinent to note that the decree holder-Bhag Singh, had filed a suit for specific performance of an agreement to sell dated 01.07.1982 in respect of agricultural land measuring 8 Bighas, 15 Bishwas, bearing khasra no. 110 min/2-19/112 min/2-17, 11 min/ 2-19 duly



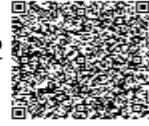
described in the plaint as well as in the judgment dated 15.11.1985. The total sale consideration was fixed as Rs. 26,250/-, out of which an amount of Rs. 17,250/- was paid as earnest money, while the remaining Rs. 9,000/- was kept with the plaintiff to be paid to Smt. Kartar Kaur, the mortgagee.

4. The plaintiff had also sought a decree of possession and challenged the sale-deed executed by Kaushalya Devi in favour of defendant No. 2, Harnek Singh, vide sale-deed dated 28.12.1983, claiming it to be null and void and not binding on rights of plaintiff-decree holder. Ultimately, the plaintiff was held entitled to a decree for specific performance of the agreement to sell dated 01.07.1982. The defendants were ordered to register the sale-deed in terms of the agreement of sell (Ex. P-1) within one month.

5. The judgment and decree dated 15.11.1985 has attained finality. As appeal against the judgment and decree dated 15.11.1985 was decided vide judgment and decree dated 14.01.1988 and thereafter RSA No. 1385 of 1988 was decided on 18.04.2018 by Hon'ble High Court. Thereafter, execution petition was preferred by the decree holder, Bhag Singh, seeking execution of the sale-deed as well as for seeking possession of the land covered by the sale-deed.

6. In the course of execution, the objector, Mohinder Singh has claimed that his father Gurnam Singh, was the original owner of the property and had never sold the same to Kaushalya Devi. He further contended that the sale-deed dated 14.06.1982, purportedly executed by his father and is not genuine. and Kaushalya Devi had never sought possession of the said land. It was also asserted that Kaushalya Devi had never taken possession of the suit land.

7. The objector has referred to a suit for declaration filed by him challenging the validity of the sale deed dated 14.06.1982. It is worth noticing that



the suit to challenge the sale-deed dated 14.06.1982 was filed only on 03.01.2025. The objector has claimed that Kaushalya Devi never became a co-sharer in the suit property and was never in possession thereof. In the alternative, the objector has asserted that even if it is taken that Kaushalya Devi had purchased the property, she would have been co-sharer and, therefore, decree holder is entitled only to symbolic possession and not to actual physical possession, as has been ordered by the Executing Court. Reliance has been placed upon the judgments of this Court in *Amarjit Singh Vs. Jagdev Singh and others*, CR No. -5585 of 2017, decided on 17.03.2022, *Baldev Singh (deceased) through LRs Vs. Harbhajan Singh and others*, 2015(2) PLJ 495, *Tarachand and another Vs. Ramnath and another* 2011(2) Law Herald 1279 and *Harjinder Singh (deceased) repled by LRs. Vs. Ravinder Kumar*, 1996(1) RRR 463.

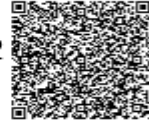
8. I have heard the learned counsel for the petitioner-third party. The following facts clearly emerge from the impugned order:-

- (i) That the decree-holder had filed a suit for specific performance on 16.01.1984, which was decreed by judgment and decree dated 15.11.1985. Subsequently, an appeal against the said judgment and decree was decided by the Appellate Court vide judgment and decree dated 14.01.1988. Further, the RSA No. 1385 of 1988, preferred by the defendants, was finally decided by the High Court vide its judgment dated 18.04.2018. Therefore, the judgment and decree dated 15.11.1985 has attained finality between the parties.
- (ii) That decree holder had filed a civil suit bearing No. 291, instituted on 28.03.1990, against Gurnam Singh (predecessor-



in-interest of objector Mohinder Singh), Kaushalya Devi (Judgment Debtor No. 1), and Harnek Singh (Judgment Debtor No. 2) seeking a decree of permanent injunction.

- (iii) The civil suit No. 291, filed by the decree-holder, was decreed vide judgment and decree dated 10.01.1994 passed by the Court of learned Sub Judge, Ist Class, Dhuri. It was held that Gurnam Singh had sold the suit property to defendant No. 1, namely Kaushalya Devi vide sale-deed dated 14.06.1982.
- (iv) That the validity of the sale-deed dated 14.06.1982 stands decided in the suit wherein Gurnam Singh himself was party. Therefore, the objector, Mohinder Singh, who claims rights through Gurnam Singh is deemed to have exhausted his legal remedies and consequently, the suit now filed by him to challenge the same sale deed dated 14.06.1982 is not maintainable in the eyes of law.
- (v) That judgment and decree dated 10.01.1994 passed in civil suit No. 291 dated 28.03.1990, has attained finality. It is also noted that Gurnam Singh, the predecessor-in-interest of the objector Mohinder Singh, had, at the time of executing the sale-deed dated 14.06.1982, had categorically stated that possession of the property was delivered to Kaushalya Devi in terms of the said sale-deed. Furthermore, the decree for specific performance, passed vide judgment and decree dated 15.11.1985, also pertains to the land which was in possession being subject matter of sale deed dated 14.06.1982 .



- (vi) That after finalization of the lis between the decree-holder and the Judgment Debtor by the Hon'ble High Court vide judgment dated 18.04.2018 passed in RSA No. 1385 of 1988, the decree-holder, in the course of execution proceedings, had deposited the balance sale consideration. Pursuant thereto, the sale-deed was executed in faovur of the decree-holder as ordered by the Executing Court on 15.04.2024.

9. The learned Executing Court, after considering the respective contentions of the parties, concluded that the objector, Mohinder Singh, being the successor-in-interest of the original owner, Gurnam Singh, is bound by the judgment and decree dated 10.01.1994 which has attained finality against Gurnam Singh and Judgment Debtor No. 1. The learned Executing Court also concluded that Kaushalya Devi was in specific possession of the land, which was purchased by her vide sale-deed dated 14.06.1982 and, therefore, as per the judgment and decree dated 15.11.1985, she is bound to hand over possession of the land.

10. The principle of law as laid down by this court that a person purchasing joint land is entitled to symbolic possession unless land is partitioned is not in doubt. However, this general rule admits an exception where specific khasra Number is sold by a co-sharer, and said co-sharer is in possession of specific portion then he can sell his share and even transfer specific portion to the vendee, however, it will not bind co-sharers and would not effect their rights and such sale and possession would be subject to partition of joint holding.

11. Therefore, it is not an absolute rule that a person who purchases a portion of the joint land would be deprived of actual use or possession merely because the land remains unpartitioned. The purchaser, shall step into the shoes



of the vendor. If vendor was in possession of a specific portion of the joint land at the time of sale, then the possession of said joint land would stand transferred to the subsequent purchaser, however, such transfer of possession is subject to final partition. Therefore, symbolic possession would be available to a subsequent purchaser only if his vendor was not himself in actual possession of a specific portion of the joint land and was enjoying symbolic possession through his other co-sharers. This proposition of law is duly noted in judgment referred by petitioner titled as Harjinder Singh Vs. Ravinder Kumar (Supra). Possession in joint land would travel with co-sharer but it would be subject to partition

12. In the present case, it is worth noticing that the suit land was exclusively owned by Gurnam Singh; it was not joint land at that time, it was exclusively owned by Gurnam Singh. He had sold part of suit land to Kaushalya Devi vide sale-deed dated 14.06.1982 and had specifically transferred the possession of land sold, to Kaushalya Devi, in pursuance of sale-deed dated 14.06.1982. Therefore, Gurnam Singh had lost possession of land sold by him to Kaushalya Devi and after 14.06.1982, it was Kaushalya Devi, who became owner in possession of suit land. The land sold by Gurnam Singh was specific land and, therefore, it cannot be considered to be joint land. Mohinder Singh has no independent right other than which vested in Gurnam Singh as he had succeeded the property of Gurnam Singh being his legal heir. Gurnam Singh was not owner of the suit property, when Mohinder Singh had succeeded him.

13. It is worth noticing that civil suit No. 291 dated 28.03.1990, was filed by the present decree-holder against Gurnam Singh, Kaushalya Devi (Judgment Debtor No. 1) and Harnek Singh (Judgment Debtor No. 2), seeking a decree for permanent injunction. The said suit was decreed vide judgment and decree dated



10.01.1994 by Court of learned Sub Judge, Dhuri and it was held that Gurnam Singh had sold the suit property to defendant No. 2 Kaushalya Devi vide sale-deed dated 14.06.1982. The said judgment and decree dated 10.01.1994 is also binding upon present objector being successor-in-interest of Gurnam Singh, therefore, he cannot claim suit property to be joint property as Gurnam Singh being sole owner had sold away specific portion of land and handed over possession to Kaushalya Devi upon execution sale-deed dated 14.06.1982. The suit preferred by objector in the year 2025 challenging sale-deed dated 14.06.1982 in favour of Kaushalya Devi will not give any right to objector to defeat rights of decree-holder flowing from judgment and decree dated 15.11.1985 which has attained finality vide judgment passed by this Court, especially in view of the fact that the sale-deed executed by Gurnam Singh was held to be valid in proceedings, which had culminated vide judgment and decree dated 10.01.1994.

14. Therefore, in fact Mohinder Singh is not one of the co-sharers as being claimed by him. Moreover, even if, for the sake of argument, Mohinder Singh is considered to be co-sharer as being alleged by him, even then in view of the fact that Kaushalya Devi was in possession of land on execution of sale-deed dated 14.06.1982 Mohinder Singh-objector has no right to obstruct execution against Kaushalya Devi, in pursuance of judgment and decree dated 15.11.1985 against her. It is made clear that in case Mohinder Singh is also co-sharer, the possession of Kaushalya Devi and through her of decree-holder shall be subject to final partition. This observation is being made by way of abundant caution, as this Court is not deciding rights of parties and is rather deciding the objections raised by the petitioner and, no prejudice should be caused to the rights of any of the party. It is accordingly held that Executing Court is right in proceedings to

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seek possession of suit property from Kaushalya Devi (Judgment Debtor No. 1), and Harnek Singh (Judgment Debtor No. 2), who claim to be in possession in view of sale-deed dated 14.06.1982.

15. In view of the above, the present petition is found to be devoid of any merit and is hereby dismissed.

10.09.2025
manoj

(PARMOD GOYAL)
JUDGE

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