

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

207

2025:PHHC:018483



**RSA-1104-1999 (O&M)
Date of decision: 07.02.2025**

HARBHAJAN SINGH & ORS.

..Appellants

Versus

MOTA SINGH & ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rohit Singh, Advocate
Mr. Satwant Singh, Advocate
Ms. Shilpa Puri, Advocate
for the appellants.

ANIL KSHETARPAL, J(Oral)

1. The plaintiffs assail the correctness of First Appellate Court's judgment by which their suit was partly decreed while modifying the judgment of the trial Court.
2. The plaintiffs filed suit for decree of permanent injunction claiming that they had purchased the property from the respondents vide sale deed dated 15.01.1975. It was asserted by the plaintiffs that possession was delivered to them of land comprised in Rectangle No.2/1, 9, 9 (min) and 12/1, measuring 9 kanal and 8 marlas. The defendants contested the claim while asserting that defendant No.1 is the owner of land comprised in Rectangle No.24, Khasra No.12/2 and 19. The trial Court dismissed his suit. The First Appellate Court upon reappreciation of evidence found that plaintiffs have failed to prove their possession qua land comprised in Rectangle No.24, Khasra No.12/2.
3. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook along with scanned copy of the record.



4. Learned counsel for the appellants submits that in the sale deed dated 15.01.1975, the delivery of possession with respect to Rectangle No.24, Khasra no.12/2 is recorded. He further submits that the First Appellate Court has misread the evidence of Sh. Harbhajan Singh (plaintiff No.1).

5. This Court has considered the submissions of learned counsel for the appellants.

6. Ex.P-5 is the sale deed executed on 15.01.1975. It is evident that the plaintiffs purchased undivided share in the joint khewat. They purchased 1/3rd share in the land measuring 28 kanal and 3 marlas. It is specifically recorded in the sale deed that they have been delivered only symbolic possession.

7. Similarly, the deposition of plaintiff with respect to his possession over land comprised in Rectangle No.24, Khasra No.12/2 has not been found reliable. The Court has held that Sh. Mota Singh (defendant) after getting the mortgage redeemed was delivered possession of the property.

8. Hence, the remedy for the plaintiffs is to seek partition of the joint property.

9. Hence, no ground to interfere is made out.

10. Disposed of accordingly.

11. All the pending miscellaneous applications, if any, are also disposed of.

February 07th, 2025

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Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*

(ANIL KSHETARPAL)
JUDGE