



RSA-2565-1994 (O&M)

Sr.No.110

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

**RSA No.2565 of 1994 (O&M)
Decided on : 23.01.2025**

Smt. Lajwanti

...Appellant

Versus

Deepal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Ashish Kapoor, Advocate and
Mr. M.S. Rana, Advocate
for the appellant.

Mr. Alok Mittal, Advocate
for the respondents.

PANKAJ JAIN, J. (ORAL)

Plaintiff is in appeal. For convenience, the parties are being referred to by their original position in the suit i.e. the appellant as plaintiff and respondents as defendants.

2. Plaintiff filed suit for possession by way of pre-emption claiming superior right as co-sharer to pre-empt sale deed dated 18.07.1990 in favour of defendants. As per plaintiff, she had purchased 100/1690 share

**RSA-2565-1994 (O&M)**

admeasuring 5 Kanals in the joint Khewat. Defendant Nos.2 to 9 sold land to defendant no.1 without prior notice to the plaintiff.

2.1. Suit was contested by defendants. Defendant No.1 claimed that he is co-sharer even prior to date of sale deed in favour of the plaintiff. Thus, the plaintiff cannot claim superior right over him to pre-empt his sale deed. Husband of defendant No.2 and father of defendant Nos.3 to 9 was real brother of defendant No.1. Thus, he had prior right of inheritance.

2.2. Court of the First instance decreed the suit filed by the plaintiff holding her to be co-sharer in the suit property and thus, having superior right to pre-empt the sale deed.

2.3. Dissatisfied, defendants preferred appeal. Lower Appellate Court accepted the appeal reversing findings recorded by the Court of the First instance. Lower Appellate Court held that as per Jamabandi Ex.D1, for the year 1985–86, vendee was already recorded as co-sharer in the joint property along with Sher Singh, predecessor-in-interest of defendant Nos.2 to 9, when plaintiff purchased share in joint khewat and became co-sharer.

3. Counsel for the appellant has assailed findings recorded by the Lower Appellate Court. He contends that Lower Appellate Court wrongly allowed the application filed by defendants for leading additional evidence. No case was made out by defendants for leading additional evidence.

4. Counsel for the respondents submits that additional evidence was led in the form of revenue record. Therefore, no prejudice was caused to the plaintiff. It has come on record by way of Ex. D1 that on the day, plaintiff

**RSA-2565-1994 (O&M)**

acquired status of co-sharer in the suit property, defendant No.1 was already a co-sharer.

5. I have heard for the parties and have carefully gone through records of the case.

6. Keeping in view the nature of evidence adduced by way of additional evidence i.e. revenue record, I do not find any infirmity in the orders passed by the Lower Appellate Court allowing application filed under Order 41 Rule 27 CPC.

7. Counsel for the appellant is not in position to dispute that as per Ex.D1, the vendee was already recorded as co-sharer along with his brother Sher Singh in the joint khewat.

8. In view of above, finding no merits in the present appeal, the same is ordered to be dismissed.

9. Pending application(s), if any, shall also stand disposed off.

**(PANKAJ JAIN)
JUDGE**

January 23, 2025

ashish

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No