



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

(209)

RSA-8-2000(O&M)
Date of Decision:-08.09.2025

Ram Kala and Another

.....Appellants

Versus

Chhote Lal (Since deceased) through his LRs and Another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. Sukhandeep Singh, Advocate, for
Mr. Lokesh Sinhal, Advocate,
for the appellants.

Mr. Rahul Sharma, Advocate,
for the respondents.

AMARINDER SINGH GREWAL, J. (Oral)

1. The present regular second appeal has been filed by the appellants challenging the judgment and decree dated 13.03.1999 passed by the learned Civil Judge (Junior Division), Nuh, and the subsequent appeal decided on 14.01.1999, by learned District Judge, Gurgaon. In the present regular second appeal, the appellants claim ownership and possession of the house marked by letters ABCD, as shown in red in the site plan annexed to the plaint, situated within the Abadi of village Jaurasi, Tehsil Nuh, District Gurgaon.

2. Briefly stated, facts of the case are that Paltu, father of appellant No.1 Ram Kala; Bhajan Lal, father of appellant No.2 Ram Chander; and Sukhpal, father of Chote Lal, owned ancestral agricultural land and residential plots in village Jaurasi in the shares of 1/4th, 1/2nd, and



1/4th respectively. During their lifetime, the forefathers amicably partitioned the residential plots, resulting in respondents-defendants acquiring possession of Khewat No.241, Khata No.308, Rectangle No.55, Khasra No.43 measuring 1 kanal 19 marlas, while the plaintiffs (appellants) acquired plots marked ABEF and FECD. Both parties had constructed pucca/kacha houses on their respective plots and had invested substantial amounts. DW1 Chote Lal admitted that the plot in dispute is ancestral and owned jointly by Ram Kala, Ram Kishan, and Chote Lal and that it had been divided since the time of their forefathers. The appellants argued that the lower Courts erred in holding that the parties were co-sharers and that the property had not been partitioned in writing. They prayed for setting aside the impugned judgments and decrees and for the suit in their favor to be decreed.

3. On notice, the defendants put in appearance and filed written statement contesting the suit raising various legal objections disputing the correctness of the site plan attached with the plaint. The plaintiffs had filed replication controverting the allegations in the written statement whereas reiterating the averments in the plaint.

4. On the pleadings of the parties, issues were framed and the parties led evidence in support of their respective claims.

5. After hearing learned counsel for the parties, the trial Court of Civil Judge (Jr.Divn.), Nuh by giving issue-wise findings dismissed the suit of the plaintiffs. This was so done vide judgment and decree dated 13.03.1999.

6. Feeling aggrieved by the said judgment and decree, the



plaintiffs filed an appeal in the Court of District Judge, Gurgaon, who, vide judgment and decree dated 14.06.1999 dismissed the same upholding the judgment and decree passed by the trial Court.

7. Still feeling dissatisfied, the plaintiffs have knocked the door of this Court by way of filing a regular second appeal praying that the same be accepted, the impugned judgments and decrees passed by the Courts below be set aside and their suit be decreed.

8. I have heard learned counsel for the parties besides going through the record.

9. It is well settled in law that oral partition, although admissible as evidence, cannot override formal revenue records. In the present case, the appellants relied on the oral admissions of DW1 Chote Lal and alleged historical division. However, no documentary evidence or revenue record has been placed to substantiate the claimed partition. The appellants did not get updated or incorporated the alleged partition in the revenue record, which is the authoritative record of ownership. If the partition had been real and intended to confer exclusive ownership, it was expected to reflect in the Khewat, Khata, and Khasra records. The Court cannot accept mere oral statements or informal arrangements as establishing legal ownership.

10. Even assuming that the parties had made an informal arrangement regarding the use of portions of the property, such possession cannot be interpreted as exclusive ownership. It is a settled principle of law that in the case of co-owned property, possession by one co-owner is possession by all co-owners. Therefore, the mere fact that appellants were in possession of a portion of the property does not entitle them to exclusive



ownership. The proper legal remedy for the appellants, if they wished to claim exclusive ownership, was to initiate formal partition proceedings in accordance with law. Filing a suit for possession without seeking partition cannot result in conferring exclusive ownership rights. The appellants failed to invoke the appropriate remedy for their claimed right.

11. The appellants' counsel submitted that the property was divided among the forefathers and marked in red line as per the site plan. However, a careful perusal of the evidence shows that the alleged partition is not documented in any revenue record and the admission of DW1 only confirms the ancestral nature of the property, not exclusive ownership of the portions claimed by the appellants. The claimed division appears to have been an arrangement for convenience and usage, not a legally enforceable partition.

12. It is well-settled that co-owners cannot acquire exclusive ownership merely through informal division of possession. Courts have consistently held that possession and occupation of specific portions by co-owners does not extinguish the share of other co-owners unless there is formal partition recorded in revenue records or decreed by a Court. The appellants' claim of exclusive ownership based on alleged ancestral partition is unsubstantiated and cannot be accepted.

13. I find that the verdict given by the Courts below is based upon proper appreciation and correct interpretation of law. Both the Courts below had rejected the claim of the plaintiffs. I do not see any reason to disagree with the Courts below and take a different view and further to interfere with the impugned judgments and decrees. Those judgments and decrees are



upheld.

14. No substantial question of law or fact arises in this appeal.
15. The appeal stands dismissed accordingly.
16. Since the main appeal stands dismissed, the miscellaneous application(s), if any, stand disposed of accordingly.

(AMARINDER SINGH GREWAL)
JUDGE

08.09.2025

Shubham

Whether speaking/reasoned:-	Yes/No
Whether Reportable:-	Yes/No