



CR-6893-2025(O&M)

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

(115)

CR-6893-2025(O&M)
Date of Decision:-26.09.2025

Bhupinder Singh

.....Petitioner

Versus

Kulwinder Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. Nakul Sharma, Advocate,
for the petitioner.

AMARINDER SINGH GREWAL, J. (Oral)

1. The present civil revision petition has been filed under Article 227 of the Constitution of India *inter alia* praying for setting aside the impugned order dated 18.08.2025 (*Annexure P-1*) passed by the learned Additional District Judge, Fatehgarh Sahib, whereby the appeal filed by the respondent in C.A. No.60 of 2022, titled as "*Kulwinder Singh v. Bhupinder Singh*", was allowed, modifying the order dated 22.07.2022 passed by the Learned Civil Judge (Jr. Divn.), Amloh, under Order XXXIX Rules 1 & 2 CPC, to the extent that the petitioner is entitled to draw the water from the electric motor connection No. AP-05-0074 (7½ BHP) is 1/6th share, while the respondent was entitled to 5/6th share.

2. Brief facts of the case are that the petitioner and respondent are the real brothers. The electric motor in dispute, bearing A/C No. AP-05-0074, stands in the name of their deceased father, Sh. Gurcharan Singh, and



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was installed on the land owned by him. Sh. Gurcharan Singh executed a registered Will in favour of his wife, Smt. Surinder Kaur. Upon her demise on 02.02.2020, her estate devolved equally to the petitioner and respondent in terms of her registered Will, as sanctioned by Mutation No.1115 dated 23.04.2021. This estate included the land and the electric motor/tubewell along with its connection, motor room (Kotha), and water channel (Khal). The petitioner has been cultivating his land and using the motor for irrigation. The respondent has, *however*, obstructed and threatened the petitioner's lawful use of the motor and the water channel/Khal. In consequence, the petitioner filed a civil suit seeking permanent injunction and an application under Order 39 Rules 1 & 2 CPC restraining the respondent from interfering with his peaceful use of the electric motor. The Learned Civil Judge (Jr. Divn.), Amlon, vide order dated 22.07.2022, had allowed the petitioner's application, holding that all co-sharers are entitled to use the motor jointly until partition. Aggrieved from the same, the respondent filed an appeal before the Learned Additional District Judge, Fatehgarh Sahib, which was allowed on 18.08.2025, holding that the petitioner is entitled for 1/6th share and respondent is entitled for 5/6th share.

3. Learned counsel for the petitioner, *inter alia*, submits that the impugned order is illegal, perverse, and contrary to law and facts. The learned Appellate Court wrongly allowed the application on disputed facts regarding alleged oral partition of the motor, which could only be determined after the conclusion of the trial. Learned counsel further asserts that petitioner inherited ½ share in the estate of Smt. Surinder Kaur, including the electric motor/tubewell, its connection, water channel, and



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motor room. The affidavit dated 07.04.2021 relied upon by the respondent pertained to the petitioner's separate land purchased from Kapoor Singh prior to inheriting his mother's estate and cannot affect his subsequently accrued inheritance rights. He further emphasizes that both brothers are co-owners of the motor and that the Appellate Court's modification of the trial court order to 1/6th share is arbitrary and causes irreparable loss to the petitioner. Reliance has been placed on the cases titled as *Gopi Ram v. Shyam Sunder*, 2006 SCC Online P&H 465 and *Om Prakash v. Ishwar Singh*, 2008 (3) RCR (Civil) 777, holding that electric motors installed on jointly owned land constitute joint property, giving equal rights to co-sharers.

4. I have heard learned counsel for the petitioner and carefully perused the paper book.

5. In view of the order proposed to be passed, notice is not being issued to respondent as it would delay the proceedings besides entailing additional expenses to the respondent.

6. It is clear from the perusal of the paper book, including the Wills of Sh. Gurcharan Singh and Smt. Surinder Kaur and Mutation No.1115 dated 23.04.2021, that the petitioner and respondent are co-owners of the estate to the extent of equal shares. This includes the land, electric motor/tubewell connection No. AP-05-0074, water channel (Khal), motor room (Kotha), and appurtenant equipment. The petitioner's entitlement to ½ share is legally valid and indisputable. The Learned Civil Judge (Jr. Divn.), Amloh, while granting the interim injunction under Order XXXIX Rules 1 & 2 CPC, correctly held that the disputed issues, such as alleged



oral partition or affidavits regarding prior sales, cannot be conclusively determined at this stage. The learned Trial Court rightly emphasized the need to protect co-sharers' rights in the jointly owned motor and prevent obstruction or damage.

7. Further, the Learned Additional District Judge, Fatehgarh Sahib, relied on the affidavit dated 07.04.2021 by the petitioner and the affidavit of Tarlok Singh dated 28.02.2015. A careful reading of the same shows that the affidavit dated 07.04.2021 pertains to land independently purchased by the Petitioner from Kapoor Singh prior to his inheritance from Smt. Surinder Kaur, and the affidavit of Tarlok Singh relates to a prior family settlement and sale of a separate portion of the motor share. Both affidavits cannot legally or factually diminish the Petitioner's inheritance right of $\frac{1}{2}$ share under the Will and sanctioned mutation. The respondent's claim of an oral partition between the father and sons is unsupported by cogent evidence and no official revenue records, agreements, or legal instruments corroborate such an oral partition. While the Wills and sanctioned mutation entries clearly establishes the right of equal ownership.

8. In the case of *Gopi Ram v. Shyam Sunder*, 2006 SCC Online P&H 465, it was held that a motor installed on jointly owned land is deemed joint property. Further, in *Om Prakash v. Ishwar Singh*, 2008 (3) RCR (Civil) 777, the Court held that even if the motor is in the name of one co-sharer, other co-owners have the right to use it. These judicial precedents firmly support the petitioner's entitlement to $\frac{1}{2}$ share and the Trial Court's approach.



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9. The Sanad Taksim dated 06.07.2023, along with site plan, demonstrates that the sufficient portions of land, motor room, and approach paths have been allocated to both brothers. This ensures that the petitioner can freely access and use the electric motor/tubewell without obstruction. The interim nature of the proceedings underscores that no conclusive determination on disputed factual issues, such as prior sale or oral partition, could be made at this stage.

10. In light of the above, the present revision petition is allowed, without commenting upon the merits of the case. The impugned order dated 18.08.2025 (*Annexure P-1*), passed by the learned Additional District Judge, Fatehgarh Sahib, is hereby set aside. Both the parties, i.e., the petitioner as well as the respondent, shall be entitled to draw water from the electric connection in equal shares.

11. All pending application(s), if any, stand disposed of accordingly.

(AMARINDER SINGH GREWAL)
JUDGE

26.09.2025
Shubham

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