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

RSA-44-2019 (O&M)

Date of Decision : 01.09.2025

GURVAIL SINGH

.... Appellant

VERSUS

JAGPREET SINGH AND ANR

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Anupam Bhardwaj, Advocate for the appellant.
(joined through hybrid mode)

ALKA SARIN, J. (ORAL)

1. The present regular second appeal has been preferred by the plaintiff-appellant challenging the judgment and decree dated 07.05.2018 passed by the First Appellate Court reversing the judgment and decree dated 04.10.2016 passed by the Trial Court.

2. Briefly stated the facts relevant to the present *lis* are that the plaintiff-appellant herein filed a simplicitor suit for permanent injunction on the averment that the suit land was originally owned by the plaintiff-appellant along with his brothers, namely, Balbir Singh, Sukhdev Singh, Baldev Singh, his mother, namely, Jagir Kaur and his sisters, namely, Ranwant Kaur and Ranjit Kaur. Balbir Singh and Jagir Kaur are stated to have died. It was further averred that the suit land was joint and no partition had taken place between the parties. It was still further averred that a sale deed had been executed by the brother of the plaintiff-appellant, namely, Balbir Singh (since deceased)

which was without any consideration and not binding on the rights of the plaintiff-appellant and that the same had been executed under the influence of liquor. The said property was stated to be adjacent to the land of the defendant-respondents and they wanted to take forcible possession from the plaintiff-appellant without getting the partition from the competent Court. Hence, the suit.

3. On notice the defendant-respondents filed their written statement challenging the suit on various grounds of maintainability, *locus standi*, cause of action, non-joinder and mis-joinder of necessary parties, etc. On merits it was denied that the plaintiff-appellant was the owner in possession of the suit land and claimed that the suit land was jointly owned by various co-sharers including the defendant-respondents. It was further the stand taken that the defendant-respondents had become owners and co-sharers in the joint Khata on the basis of the sale deed dated 18.06.2010 executed by Balbir Singh. It was still further the stand taken that the sale deed dated 18.06.2010 had been challenged by filing a separate suit.

4. Replication was filed. On the basis of the pleadings of the parties, the following issues were framed :

1. Whether plaintiff is entitled to suit for permanent injunction as prayed for ? OPP
2. Whether the suit of the plaintiff is not maintainable ? OPD
3. Whether the plaintiffs have got no locus standi to file the present suit ? OPD

4. Whether plaintiffs have got no cause of action to file the present suit ? OPD

5. Whether the plaintiffs are stopped by their own act and conduct from filing the present suit ? OPD

6. Relief.

5. The Trial Court vide judgment and decree dated 04.10.2016 decreed the suit of the plaintiff-appellant. Aggrieved by the same an appeal was preferred by the defendant-respondents which appeal was allowed by the First Appellate Court vide judgment and decree dated 07.05.2018. Hence, the present regular second appeal by the plaintiff-appellant.

6. Learned counsel for the plaintiff-appellant would contend that there were two *khasra girdwari* (Ex.P2 and Ex.P3) which were in favour of the plaintiff-appellant and on the basis of which the Trial Court had decreed the suit and as such the First Appellate Court had erred in reversing the judgment and decree passed by the Trial Court.

7. Heard.

8. In the present case the First Appellate Court had observed that the suit filed by the legal representatives of Balbir Singh challenging the sale deed dated 18.06.2010 was dismissed vide judgment and decree Ex.D1 and Ex.D2. The plaintiff-appellant himself, namely, Gurvail Singh, in his cross-examination submitted that the *khasra girdwari* of land measuring 91 Kanal 10 Marla reflected the same to be joint in the name of all the co-sharers and that he was not in exclusive possession. It is a matter of record that no partition has taken place. The plaintiff-appellant himself admitted that he is not in

exclusive possession of the suit property. Once the suit property was joint and no partition has taken place, the suit for injunction has rightly been dismissed by the First Appellant Court. In view thereof, no fault can be found with the impugned judgment and decree. No other point was argued.

9. No question of law, much less any substantial question of law, arises in the present case which requires consideration by this Court. The appeal being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

01.09.2025
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No