



RSA No. 1858 of 2001 (O&M) 1

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

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RSA No. 1858 of 2001 (O&M)

DATE OF DECISION :- 12.03.2025

Ajaib Singh

...Appellant

Versus

Sadhu Singh (deceased) through LRs and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Abdul Shehbaz Thind, Advocate for the appellant.

Mr. Munish Gupta, Advocate with

Mr. Paras Kakkar, Advocate for respondent No. 1.

ANIL KSHETARPAL, J. (ORAL)

CM-2843-C-2025

This is an application under Order 22 Rule 4 C.P.C. read with Section 151 CPC for impleading legal heirs of the deceased respondent No. 1 Sadhu Singh, who died on 21.3.2023 leaving behind his legal representatives as mentioned in para no. 3 of the application.

Accordingly, in view of the averments made in the application, the same is allowed. The said legal representatives are allowed to be brought on record. The amended memo of parties is taken on record.

C.M. stands disposed of.

CM-10682-C-2024

For the reasons mentioned in the application, as also in view of the submissions made by learned counsel for the applicant-appellant, the

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application is allowed & the main case is directed to be restored to its original number and status.

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1. Defendant No. 1 assails the correctness of the First Appellate Court's judgment which has in turn modified the judgment of the trial Court. The trial Court decreed the suit in entirety whereas the First Appellate Court has modified the decree.

2. Sadhu Singh, Ajaib Singh and Inderjit Singh are sons of Kishan Singh and Bachan Kaur. Sadhu Singh filed a suit for separate possession by way of partition of three properties namely 'A', 'B' and 'C'. Defendants contested the suit claiming that Bachan Kaur, their mother was never a co-sharer and there was a private partition on 28.06.1970. Inderjit Singh defendant No. 2 sold his share to defendant No. 1 in property 'B' vide sale deed dated 21.05.1990. Defendant No. 1 also propounded Bachan Kaur's Will dated 17.12.1981. The trial Court found that Bachan Kaur's Will is not proved hence the decree for partition was passed with respect to all the three properties namely 'A', 'B' and 'C'.

3. Ajaib Singh i.e. the defendant No. 1 filed First Appeal. Learned First Appellate Court held that there is a deed of partition dated 28.06.1970, dividing property No. 'A' & 'B', however, the Court held that property 'C' will have to be divided as there was no partition as per deed of partition on 28.06.1970

4. Ajaib Singh has now filed the regular second appeal claiming that the decree passed by the First Appellate Court qua property No. 'C' is wrong.

5. On 05.03.2025, the following order was passed :-



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“Though, only an application readmission of the appeal is listed, however, learned counsel for the appellant has been heard on merits.

He contends that there was a deed of partition between the family members executed in the year 1970, partitioning all the three properties namely ‘A’, ‘B’ and ‘C’. He submits that plot bearing No.256 was allotted to Sh. Ajaib Singh and Sh. Inderjit Singh to the exclusion of Sh. Sadhu Singh, however, the First Appellate Court has erred in reading deed of partition.

Learned counsel for respondents prays for a short accommodation to get complete instructions.

List on 12.03.2025, in the urgent list.

No further request, written or oral, for an adjournment shall be entertained.”

6. Once again learned counsel representing the parties have been heard and a scanned copy of the lower Court record has been perused.

7. Learned counsel representing the appellant submits that property ‘C’ is not comprised in Khasra No. 256 and plot which was given to Bachan Kaur by the Gram Panchayat is not required to be partitioned in this suit.

8. On the other hand, learned counsel representing the respondent has read the deed of partition in the open Court. He submit that the parties were owners of three properties namely ‘A’, ‘B’ and ‘C’. He submits that property ‘B’ is comprised in khasra No. 256 and there was one house which was given by all the three sons to Bachan Kaur by the Panchayat. He submits that aforesaid house is property ‘C’ which has been ordered to be partitioned by the First Appellate Court.

9. This Court has considered the submissions and carefully read the deed of partition dated 28.06.1970. It is evident that this partition deed is with respect to the three properties. Property ‘A’ fell to the share of Sadhu Singh plaintiff, property ‘B’ fell to joint share of Inderjit Singh and Ajaib Singh.



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Property 'B' is comprised of khasra No. 256. Property 'C' is a house which was owned by the family. The Panchayat of respectables allocated the aforesaid house to the mother namely Bachan Kaur. The three sons were also required to pay maintenance to the mother. After her death the aforesaid property is required to be divided among his three Class I heirs. There is a lack of clarity on the part of the First Appellate Court with regard to property comprised in khasra No. 256. Learned counsel representing the parties do not dispute that property 'B' is comprised in khasra No. 256 and not property 'C'. Though the learned counsel representing the appellant has tried to make submission to the effect that the house was allotted to Bachan Kaur by the Panchayat, however, on a careful reading the deed of partition the house in fact belongs to the family and it came in the share of mother Bachan Kaur. It is not even the case of defendant No. 1 that there are four properties and not three properties.

10 Keeping in view the aforesaid facts, there is no ground to interfere. Accordingly, the appeal is dismissed.

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

**(ANIL KSHETARPAL)
JUDGE**

12.03.2025

P.Singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No