

2025:PHHC:107179



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

**RSA No. 2392 of 2022 (O&M)
Reserved on: 04.08.2025
Pronounced On: 19.08.2025**

Mandeep Kaur and others

..... Appellants

Versus

Bhag Singh @ Kehar Singh (since deceased) and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Argued By:- Mr. Parvinder Singh, Advocate
for the appellants-plaintiffs.

HARKESH MANUJA, J.

CM-8233-C-2022

Application is **allowed**, as prayed for, subject to all just exceptions. Exemption from filing the certified copies of judgment and decree dated passed by learned Additional Civil Judge (Senior Division), Balachaur (S.B.S. Nagar) is granted, while placing on record true typed copy / photocopy thereof.

CM-8234-C-2022

Prayer in the present application under Order 22 Rules 2, 4 & 11, read with Section 151 CPC, is for impleading legal representatives of deceased-respondent No. 1 (Bhag Singh @ Kehar Singh), who died on 23.11.2020.

It is averred that during the pendency of first appeal, respondent No. 1-defendant No. 1 died and inadvertently the said fact

could not be brought on record before the learned Appellate Court, SBS Nagar and also, the wife of respondent No. 1, i.e. mother of the parties, namely, Surjit Kaur, is stated to have died. It is further averred that the legal representatives of respondent No. 1 are the daughters and sons, who are arrayed as appellants (daughters) and respondent Nos. 2 & 3 (sons) in the present Regular Second Appeal.

For the reasons stated in the application, which is duly supported by an affidavit of one of the appellants, namely, Mandeep Kaur (appellant No. 1), the same is **allowed**, subject to all just exceptions. The appellants-plaintiffs and respondent Nos. 2 & 3-defendant Nos. 2 & 3 are ordered to be treated as legal representatives of deceased-respondent No.1/defendant No. 1 in the instant appeal.

MAIN CASE

By way of present appeal, challenge has been laid to the judgment and decree dated 28.04.2022 passed by the Court of Additional District Judge, Shaheed Bhagat Singh Nagar (**hereinafter to be referred as “First Appellate Court”**), whereby an appeal against the judgment and decree dated 20.05.2016 passed by the Court of Additional Civil Judge (Senior Division), Balachaur (**hereinafter to be referred as “trial Court”**), dismissing the suit for joint possession, instituted at the instance of appellants-plaintiffs, was declined; thereby affirming the judgment and decree passed by the trial Court.

[2] Briefly stating, the appellants-plaintiffs filed a suit for possession to the effect that appellants-plaintiffs and respondents-defendants constituted Joint Hindu Family and were coparceners along

with other respondents-defendants and as such, were having interest in Joint Hindu Family coparcenary property i.e. suit land to the extent of 1/6th share each. It was further pleaded that the suit land in the name of respondent No. 1-defendant No.1 (Bhag Singh @ Kehar Singh) had fallen from his last four generations and he was *Karta* of the same thereby have only 1/6th share / coparcenary interest therein. It was further pleaded that respondent No. 1-defendant No.1 allegedly executed transfer deeds of the suit land in favour of respondent Nos. 2 & 3-defendant Nos. 2 & 3 and respondent No. 2-defendant No.2 further executed transfer deed concerning part of suit property in favour of Bhupinder Singh (respondent No. 3-defendant No.3) followed by sanctioning of mutation in their names. The appellants-plaintiffs claimed that the alleged transfer deeds executed by respondent No. 1-defendant No.1 in favour of respondent Nos. 2 & 3-defendant Nos. 2 & 3 were without legal capacity to bequeath, alienate and transfer the coparcenary interest/share therein. Hence, the suit was filed.

[2.1] Upon notice, respondent Nos. 1 & 2-defendant Nos. 1 & 2 (Bhag Singh @ Kehar Singh and Avtar Singh) appeared and filed written statement, taking preliminary objections regarding maintainability of the suit, suppression of true and material facts, cause of action, locus-standi, estoppels, suit not being correctly valued as well as not within time. On merits, respondent Nos. 1 & 2-defendant Nos. 1 & 2 denied constitution of Joint Family. They further pleaded that the parties were separate in residence, mess, avocation and place of worship and the appellants-plaintiffs were having no interest, whatsoever, in the suit land. It was also

pleaded that respondent No. 1-defendant No. 1 was absolute owner in possession of the suit land and was not mere *Karta*, as such executed transfer deeds in favour of respondent Nos. 2 & 3-defendant Nos. 2 & 3 and the mutation was rightly entered and sanctioned regarding the same. Thus, it was prayed that the suit of the appellants-plaintiffs be dismissed with costs.

[3] Notice issued to respondent-defendant No.3 (Bhupinder Singh) was served, but no one appeared on his behalf and as such, he was proceeded against *ex parte* by the trial Court.

[4] Replication controverting the averments made in the written statement was filed. On the basis of pleadings of the parties, the trial Court framed the following issues:-

- “1. *Whether the plaintiffs are entitled for the relief of joint possession of the suit land, as prayed for? OPP*
2. *Whether suit is not maintainable in the present form? OPD*
3. *Relief. ”*

[5] The trial Court, vide its judgment and decree dated 20.05.2016, dismissed the suit, filed at the instance of appellants-plaintiffs, while deciding both the issues in favour of the respondents-defendants and against the appellants-plaintiffs.

[6] It is not out of place to mention here that during the pendency of the First Appeal, on the application of learned counsel for the appellants-plaintiffs, the following additional issues were framed:

- “1(a). *Whether the plaintiffs are coparceners in the suit property? OPP*

- 1(b). *Whether the plaintiffs and defendants constituted Joint Hindu Family and defendant No.1 is Karta of the same? OPP*
- 1(c) *Whether defendant No.1 was legally competent to execute transfer deed dated 18.12.2009, registered on 24.12.2009, bearing deed No.3760 of suit property in favour of Avtar Singh defendant? OPP*
- 1(d) *Whether defendant No.1 was legally competent to execute transfer deed dated 17.05.2010 registered as document No.580 dated 17.05.2010? OPP*
- 1(e) *Whether defendant No.1 was legally competent to execute transfer deed dated 17.05.2010 bearing deed No.579 in favour of Bhupinder Singh defendant? OPP*
- 1 (f) *Whether transfer deed dated 18.12.2009, registered on 24.12.2009, bearing deed No. 3760, transfer deeds both dated 17.05.2010 bearing deeds No. 579 and 580 executed by defendant No. 1 are not operative against plaintiffs? OPP*
2. *Whether the present suit is not maintainable? OPR*
3. *Relief. ”*

[7] Aggrieved thereof, the appellants-plaintiffs filed the first appeal, which also came to be dismissed vide judgment and decree dated 28.04.2022 passed by the First Appellate Court. Hence, the present appeal.

[8] Impugning the aforesaid judgments and decrees dated 20.05.2016 and 28.04.2022, learned counsel for the appellants-plaintiffs submitted that that the Courts below completely ignored the fact that the suit property was Joint Hindu Family property and thus, the sale deed and transfer deed executed by respondent No. 1-defendant No. 1 in favour of defendant No. 2 and further by defendant No. 2 in favour of defendant

No.3 were having no value in the eyes of law and any mutation sanction on the basis thereof, was not to confer any right in favour of the defendants.

No other argument has been raised on behalf of the appellants-plaintiffs.

[9] After hearing learned counsel for the appellants and having gone through the paper-book / records, I am unable to find substance in the submission(s) made on behalf of the appellants-plaintiffs.

[10] In the present case, appellants-plaintiffs have failed to prove their claim. The mutation (Ex. P-11) in favour of Prem Singh, Sunder and Bhag Singh (defendant No. 1) has no value in the eyes of law as the same nowhere depicts that it was sanctioned by way of survivorship. Even there is no documentary evidence to establish that Nihal Singh (great grandfather of the parties) was owner of the suit property and the same was inherited by Prem Singh and Sunder Singh; his sons by way of survivorship, which was pre-requisite constituent of proving ancestral nature of suit property. Even Ex.P-9 mutation nowhere depicts that Nihal Singh was survived by Prem Singh and Sunder Singh by way of survivorship and thereafter ownership of Bhag Singh, respondent No. 1-defendant No.1 through survivorship of Prem Singh so as to constitute suit property being ancestral in the hands of Bhag Singh (respondent No. 1-defendant No.1). Further, from the Jamabandi Ex.P1, it is clearly established that respondent No. 1-defendant No.1 was the owner of the suit property and vide sale deed Ex.D1 dated 18.12.2009, he rightly

transferred the suit property in favour of respondent Nos. 2 & 3-defendant Nos. 2 & 3.

[11] Accordingly, in view of the discussion made hereinabove, finding no illegality or perversity with the concurrent findings of fact recorded by the Courts below and there being no misreading or misinterpretation of either the pleadings or the evidence available on record; the present appeal, being devoid of merits, is hereby **dismissed**.

[12] Since, the main appeal has been decided / dismissed, no orders are required to be passed in the pending application(s) and the same shall stand disposed off.

August 19, 2025

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(HARKESH MANUJA)

JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>