

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****111****RSA-1154-2025 (O&M)
Date of Decision: 17.07.2025****BHARAT SINGH AND OTHERS****.....APPELLANTS****Vs.****TARA CHAND (DECEASED) THROUGH LRS AND OTHERSRESPONDENTS****CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA**Present: Mr. Ankur Malik, Advocate
for the appellants.

DEEPAK GUPTA, J.

This order shall dispose of the above referred two regular second appeals, parties being common and dispute relating to the same property.

2. As the perusal of both the paper books would reveal that Parbhu Dayal and Tara Chand were two real brothers being sons of Surjan. Bharat Singh etc (*appellants herein*) are the sons of Parbhu Dayal; whereas, Tara Chand etc. (*respondents herein*) are the legal heirs of Tara Chand.

3.1 Bharat Singh etc (*appellants herein*) filed a Civil Suit bearing **CS-286-2015** before Ld. Civil Judge, Gohana seeking a decree of permanent injunction against respondents by claiming to be the owners in possession of the suit property, on which they had constructed their houses about 50 years back. It was further claimed that suit property forming part of khasra No.249/9 was acquired by Land Acquisition Officer, Rohtak for the purpose of carving out Sector-7, Gohana, but on the objections raised by the plaintiffs-appellants, the land to the extent of 01 kanal 08 marla, on which the houses of the appellants were constructed, was released. The present dispute is regarding said 01 kanal 08 marla of land. It was alleged further that



defendants – *respondents herein* were bent upon to demolish the houses of the plaintiffs i.e. appellants herein.

3.2 Defendants-Tara Chand etc contested the suit and claimed the suit property to be joint property of the parties, which had not been partitioned till date. They also filed a counter claim contending that plaintiffs-Bharat Singh etc were in possession of more than their share and that they be restrained permanently from forcibly ousting the counter claimants from the joint possession of the suit property.

4. Tara Chand etc (*respondent herein*) also filed a separate suit bearing **CS-406-2015** seeking separate possession of $\frac{1}{2}$ share in the suit property by way of partition. That suit was contested by appellants herein i.e. Bharat Singh etc.

5.1 Civil Suit bearing **CS-286-2015** filed by the appellants herein Bharat Singh etc was dismissed by the learned trial Court on 18.02.2020 by holding that they are only co-sharers in the suit property along with defendants and were not in exclusive possession thereof. Appeal [**CA-118-2020**] filed by the appellants was dismissed by the First Appellate Court on 30.11.2024.

5.2 On the other hand, the Civil suit **CS-406-2015** filed by Tara Chand etc seeking partition was decreed by the trial Court on 06.04.2022 and the appeal [**CA-85-2022**] filed by Bharat Singh etc (*appellants herein*) was dismissed by the First Appellate Court on 30.11.2024.

6. It is, thus, clear that in both the suits, there are concurrent findings of courts below against the appellants herein. The suit for permanent injunction filed by them has been dismissed, whereas suit for partition filed by the respondents has been decreed.

7. The only contention raised before this court by learned counsel for the appellants is that appellants are in possession of the suit property, on which they had raised construction more than 50 years back and that they are entitled to protect their possession. However, learned counsel could not



point out any illegality in the findings returned by the Courts below to the effect that respondents also have half share in the suit property. As such, respondents are entitled to partition of their share. Decree for partition has already been passed.

8. In the aforesaid facts and circumstances, merely because plaintiffs are in possession as is claimed by them, cannot be a ground to grant them relief of permanent injunction against the co-sharers. Similarly, other co-sharers i.e. respondents are well within their right to seek partition of their share in the joint suit property.

9. Consequently, this Court does not find any ground to interfere in the concurrent findings of the facts as recorded by the Courts below, which are based upon the proper appreciation of the evidence on record

Dismissed.

17.07.2025
Pry

(DEEPAK GUPTA)
JUDGE

Whether speaking/reasoned? Yes
Whether reportable? No