



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

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**RSA-1461-2025 (O&M)**  
**Date of decision :28.08.2025**

**AVTAR SINGH AND OTHERS**

**... APPELLANTS**

**VERSUS**

**BUDH SINGH THROUGH HIS LRS AND OTHERS**

**...RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL**

Present: Mr. Mandeep Singh Bedi, Senior Advocate with  
Mr. Abhishek Thakur, Advocate and  
Ms. Shagun, Advocate  
for the appellants.

Mr. Vipin Mahajan, Advocate and  
Ms. Chandanpreet Kaur Ahluwalia, Advocate  
for the respondents-caveator.

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**PARMOD GOYAL, J. (ORAL)**

By way of present appeal, appellants have challenged impugned judgment and decree dated 31.03.2017 passed by Court of Civil Judge (Junior Division), Gurdaspur and judgment and decree dated 07.02.2025 passed by Additional District Judge, Gurdaspur.

2. The concurrent finding of facts are being challenged by appellants mainly on two grounds (1) that learned Courts below have failed to take in consideration that suit property in possession of appellants who is claiming his right through Mohinder Singh and Harbans Singh on the ground that land vested in the partnership-deed which was under the petrol pump and, therefore, this land could not have been partitioned to the extent of 1/8<sup>th</sup> share, as has been done by learned Courts below. He has placed reliance upon judgment dated

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07.08.2025 of this Court in RSA No. 3579 of 2000 wherein while adjudicating an inter-se dispute between Jasbir Singh and Mohinder Singh, it was held as under:-

*“25. As a sequel of the discussion held herein above, this court finds that the findings recorded by the courts below are unsustainable and deserve to be set aside. Accordingly, the present appeal is **allowed** and accepted. Suit filed by the plaintiff is order to be decreed. It is ordered as under:*

- a) Impugned judgements and decrees passed by both the courts below are hereby set aside;*
- b) Suit filed by plaintiff is ordered to be decreed with costs throughout. Plaintiff Jasbir Singh is declared to be partner in the partnership firms, namely M/s. Harnam Singh Mohinder Singh and M/s HM Auto Mandi Gurdaspur in terms of agreement dated 14th January 1988, Exhibit P1.*
- c) Both the partners namely Jasbir Singh and Mohinder Singh died during the pendency of the present appeal. Jasbir Singh died on 8th February 2012. Mohinder Singh died on 12th April 2013. The partnership firms are deemed to have been dissolved on the date of death of Jasbir Singh. LRs of Jasbir Singh are held entitled to seek rendition of accounts from Mohinder Singh.*
- d) Preliminary decree be drawn in favour of Appellant(s) holding them entitled to seek rendition of accounts of the aforementioned two firms for the period commencing from 1st day of April 1988 till 2<sup>nd</sup> day of February 2012.”*

3. Argument of Ld. Counsel for appellants is that since land has been given by Harnam Singh to the partnership firm, therefore, this land ought to



have been excluded by the learned Courts below, while dividing property of Harnam Singh amongst his LRs.

4. It is not in doubt that upon his death, Harnam Singh was succeeded by his 7 sons, one daughter and wife. Her wife also died intestate. The total property is stated to be in two parts and joint between the parties i.e. Schedule-A and Schedule-B. Learned Court while passing preliminary decree of partition had concluded that since Harnam Singh had never executed any will, transfer-deed, release deed, sale deed or any other document(s) releasing his rights over the suit property, therefore, the property was owned by Harnam Singh and upon his death in absence of any will, it has to be succeeded by his LRs to the extent of 1/8<sup>th</sup> share each.

4. In find no error in the conclusion drawn by learned Courts below. The concurrent finding of fact by learned Court below is based upon evidence. Admittedly, Harnam Singh had not left any gift-deed, relinquishment-deed, Court decree or will in favour of any of his legal heirs including appellants. After his death, the property has to be succeeded by his LRs who are 7 sons and one daughter after death of his wife. Therefore, no fault with the findings given by the learned Courts below can be found. Argument that Harnam Singh had given the property to the partnership firm, which was initially being run by Harnam Singh and Mohinder Singh and subsequently got dissolved between father and son by introducing Jasbir Singh as new partner in place of Harnam Singh and therefore property vested in partnership firm and not in Harnam Singh, is without any merit. Subsequently, on the death of Jasbir Singh, the firm stood dissolved and a litigation took place between LRs of Jasbir Singh and Mohinder Singh for rendition of accounts. As per appellants, after Harnam Singh had quit partnership, the firm was continued by his two sons namely

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Mohinder Singh and Jasbir Singh. The judgment dated 07.08.2025 passed by this Court in RSA No.3579 of 2000 pertains to rendition of accounts of partnership between the erstwhile partners namely Jasbir Singh and Mohinder Singh. Plaintiffs of said suit, who are LRs of Jasbir Singh were allowed to seek radiation of accounts of partnership firm. There is no material to conclude that Harnam Singh had ever transferred land in favour of partnership firm. The use land for petrol pump, which was run by partnership firm was only for the purposes of allowing sons of Harnam Singh to run their business and no rights in the land was ever created by Harnam Singh either in favour of firm or in favour of Jasbir Singh or Mohinder Singh. The land under petrol pump always remained property of Harnam Singh and had never become property of partnership firm. There is no finding to this effect in judgment by this court in RSA No. 3579 of 2000. Therefore, on death of Harnam Singh, it has to go to his LRs which includes LRs of Jasbir Singh as well as LRs of Mohinder Singh.

5. Learned counsel for the appellants is also aggrieved by mode of partition i.e. dividing properties in strips. It is to be noted that final partition is yet to made, a mode of partition has to be decided by Court before final partition is made.

6. Admittedly, vide order **dated 13.08.2025** Civil Judge (Junior Division), Gurdaspur has appointed local Commissioner for suggesting mode of partition after visiting spot. Therefore, it is clearly made out that mode of partition is yet to be finalized. In fact, respondents are also claiming possession over part of suit property and seeking to protect their respective possession in the partition proceedings.

7. In these circumstances, appellants shall free to take all defences / pleas available to them regarding mode of partition before the Court of Civil

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Judge (Junior Division), Gurdaspur. Civil Judge (Junior Division), Gurdaspur shall take in consideration, all the objections made to mode of partition taken by appellants or respondents in accordance with law.

8. Appeal is dismissed. Disposed of accordingly.

9. Pending miscellaneous application(s), if any, shall also stand disposed of.

28.08.2025  
manoj

**(PARMOD GOYAL)**  
**JUDGE**

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No