



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-4683-2000 (O&M)

Reserved on 09.10.2025

Date of decision: 13.10.2025

Mohinder Singh

...Appellant

Versus

Kulwant Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Argued by: Mr. Naresh Prabhakar, Advocate
for the appellant.
None for the respondent.

DEEPAK GUPTA, J. (ORAL)

The defendant of the original suit is in Regular Second Appeal against the concurrent findings of the Courts below, whereby the suit instituted by the plaintiff – Kulwant Singh, seeking a decree of permanent injunction in respect of the property in dispute, was decreed by the Trial Court on 09.12.1994 and affirmed by the First Appellate Court on 09.10.2000.

2. Trial Court record as available on DMS has been perused. Learned counsel for the appellant has been heard. None has put in appearance on behalf of the respondent.

3. For convenience, the parties are referred to as per their status before the Trial Court.

4. The plaintiff claimed ownership and possession of the suit land measuring 32 marla, delineated by letters 'ABCD' in the site plan annexed with the plaint, asserting that the defendant had no right, title, or interest therein but was attempting to interfere with his possession. Accordingly, he sought a decree of permanent injunction.

5. The defendant contested the claim, denying the plaintiff's ownership and possession. He asserted ownership and possession over 7



marlas out of the suit property adjoining the house of Mohan Singh and claimed that the remaining 25 marla were owned and possessed by his sister Naranjan Kaur, who had filed a separate suit for injunction against the plaintiff.

6. In replication, the plaintiff stated that Karam Singh, the common ancestor, had four sons, and in a family partition of the abadi land, each son got an equal share. The suit property had fallen to the share of his father Sohan Singh and after his death, the plaintiff continued in possession thereof.

7. The Trial Court, after framing issues and evaluating the evidence, found that the plaintiff was in possession of the suit property and that, in a suit for permanent injunction, adjudication of ownership was unnecessary. The Court thus restrained the defendant from interfering with the plaintiff's possession except in due course of law. The First Appellate Court upheld these findings on reappraisal of evidence.

8. Assailing the concurrent findings, learned counsel for the appellant argued that, in the absence of proof of partition, the parties were co-sharers, and one co-sharer could not be restrained from exercising rights over joint property. Reliance was placed on ***Sant Ram Nagina Ram v. Daya Ram Nagina Ram, AIR 1961 Punjab 528.***

9. The legal proposition that one co-sharer cannot seek injunction against another, who is also in possession of joint property, is undisputed. However, the said principle is inapplicable to the facts of the present case. The defendant never pleaded that the property was joint. On the contrary, he claimed ownership and possession of only 7 marla, while attributing ownership and possession of the remaining 25 marla to his sister Naranjan Kaur.

10. The First Appellate Court, upon a detailed appreciation of evidence, recorded that the family partition stood admitted even by the defendant's witnesses. It found that Naranjan Kaur had been residing in an-



other village since her marriage in 1947 and thus could not be in possession of the suit property. The Court also noted that the defendant had not appeared in the witness box and that his son Bhajan Singh (DW2), who deposed on his behalf, had no personal knowledge of the partition or the identity of the alleged 7 marla in defendant’s possession. The testimony of defendant’s witnesses was inconsistent and unreliable regarding the demarcation and possession of the alleged portions.

11. In view of the above, both the Courts below rightly held that the plaintiff had successfully established his possession over the suit property, whereas the defendant failed to substantiate his claim either of title or possession. The adverse inference rightly drawn against the defendant for his non-appearance in the witness box further weakens his case, as laid down in *Prem Sagar v. Darbari Lal*, (2000-2) PLR 132, and *Sardari Lal v. Kartar Singh and others*, (1998-2) PLR 485.

12. The concurrent findings are thus based on correct appreciation of pleadings and evidence and do not suffer from any perversity or legal infirmity warranting interference.

13. Consequently, finding no substantial question of law arising for consideration, the appeal is devoid of merit and is accordingly dismissed.

13.10.2025

Yogesh

(DEEPAK GUPTA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No