



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

**RSA-607-1993**

**Smt. Karnail Kaur and Another**

**. . . . Appellants**

**Vs.**

**Sh. Harnam Singh and Others**

**. . . . Respondents**

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**Reserved on: 18.03.2026  
Pronounced on: 20.03.2026  
Pronounced fully/operative part: Fully**

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**CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA**

Argued by:- Mr. M.L. Saggar, Senior Advocate with  
Mr. Omesh Garg, Advocate for the appellants.

Mr. Baltej Singh Sidhu, Senior Advocate with  
Ms. Reema, Advocate for respondent No.1.

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**DEEPAK GUPTA, J.**

The plaintiffs are before this Court in the present Regular Second Appeal, assailing the concurrent findings recorded by both the Courts below, whereby their suit for declaration and consequential relief of possession in respect of the suit land was dismissed by the learned trial Court vide judgment and decree dated 12.10.1988, and the appeal preferred thereagainst was also dismissed by the learned first Appellate Court on 17.10.1992.

2. The record of the Courts below was summoned and perused with the assistance of learned counsel for the parties. For the sake of convenience, the parties are referred to as per their status before the trial Court.

3.1 ***Plaintiff's Case*** : The case set up by the plaintiffs is that Bhagat Singh and Gurudev Singh were joint owners of land measuring 71 Kanal 5 Marla (Barani), and 17 Kanal 5 Marla (Chahi) situated in village Sahibana, Tehsil and District Ludhiana. Upon the death of Gurudev Singh, his son Tehal Singh (defen-



dant N: 3) succeeded to his share. It is pleaded that in June, 1968, an oral partition took place between Bhagat Singh and Tehal Singh in the presence of village respectables and Panchayat members, whereby they entered into separate possession of their respective shares. According to the plaintiffs, in order to consolidate holdings, Tehal Singh was allotted 45 Kanal 6 Marla of Barani land, whereas Bhagat Singh retained 25 Kanal 19 Marla of Barani land along with 17 Kanal 5 Marla of Chahi land, which forms the subject matter of the present dispute.

3.2 It is further pleaded that Bhagat Singh thereafter exchanged his Barani land measuring 25 Kanal 19 Marla with Nirmal Singh son of Chuhar Singh and, in lieu thereof, acquired 21 Kanal 4 Marla of Chahi land adjoining his existing holding. Consequently, Bhagat Singh is stated to have become owner in possession of 38 Kanal 9 Marla of Chahi land, including the suit land - 17 Kanal 5 Marla. However, the said oral partition and exchange were never reflected in the revenue record.

3.3 After the death of Bhagat Singh, the plaintiffs, being his widow and son, succeeded to his estate. In the meantime, Tehal Singh sold half land to Pritam Singh son of Nahar Singh vide sale deed dated 07.06.1978 and delivered possession of 45K - 6M of Barani land, who in turn exchanged the same with Darshan Singh (defendant No.2). It is the case of the plaintiffs that Darshan Singh never came into possession of the suit land.

3.4 However, Darshan Singh executed an agreement to sell dated 07.01.1980 in favour of defendant No.1 Harnam Singh in respect of half share of the suit land. Apprehending dispossession, the plaintiffs instituted a suit for permanent injunction in the year 1980. During the pendency of that suit, Darshan Singh executed a sale deed dated 22.12.1980 in favour of Harnam Singh. In the said proceedings, Harnam Singh made a statement admitting the possession of the plaintiffs, and on the basis of his undertaking, the suit was disposed of.

3.5 The present suit was thereafter filed by the plaintiffs seeking a declaration that they are owners of the suit land measuring 17 Kanal 5 Marla on the basis of the oral family partition of 1968, and that the sale deed dated



22.12.1980 executed by defendant No.2 Darshan Singh in favour of defendant No.1 Harnam Singh, qua 8 Kanal 12 Marla (half share), is null, void, illegal, and not binding upon their rights. A consequential relief of possession was also sought.

4. ***Stand of Contesting Defendant*** : The suit was contested by defendant No.1 Harnam Singh, who raised preliminary objections of estoppel, res judicata, and bar under Section 158 of the Punjab Land Revenue Act, 1887. On merits, it was pleaded that Darshan Singh was a co-sharer in the joint holding and had validly sold his half share to him vide sale deed dated 22.12.1980. It was further contended that he was a bona fide purchaser for valuable consideration and had lawfully obtained possession through partition proceedings.

5. In the rejoinder, the plaintiffs reiterated their stand. Upon the pleadings of the parties, issues were framed and evidence was led.

6.1 ***Trial Court Findings*** : Upon appreciation of the evidence, the trial Court held that the plaintiffs had failed to prove the alleged oral family partition of 1968. It was observed that the revenue record continued to reflect joint ownership and that there was no reliable evidence to establish exclusive possession pursuant to partition. The Court further held that there was no proof that defendant No.1 had knowledge of any such partition. It was also noticed that in the sale deed dated 07.06.1978 (Ex.D1/1) executed by Tehal Singh in favour of Pritam Singh, only a half share in the joint land was conveyed, without any reference to prior partition. The alleged exchange with Nirmal Singh was also disbelieved, as neither the concerned party nor any independent witness was examined, and no mutation of exchange was proved on record.

6.2 Consequently, defendant No.1 Harnam Singh was held to be a bona fide purchaser, and the suit was dismissed on 12.10.1988.

7.1 ***Appellate Court Findings*** : In appeal, the plaintiffs contended that the oral partition stood duly proved and was even admitted by the defendants. However, the learned first Appellate Court rejected this contention. It was ob-



served that Darshan Singh, having derived title through exchange from Pritam Singh, was recorded as a co-sharer to the extent of half share, and thereafter Harnam Singh, as vendee, was also recorded as co-sharer in the jamabandi for the year 1979-80, which fact remained undisputed.

7.2 The first Appellate Court further held that the oral evidence led by the plaintiffs was unreliable and insufficient to prove partition. The witnesses examined by the plaintiffs were found lacking in credibility, particularly as they deposed that the partition had been reduced into writing, which was contrary to the pleaded case of an oral partition.

7.3 It was also observed that the sale deed dated 07.06.1978 (Ex.D1/1) reflected transfer of both Barani as well as Chahi land, contrary to the plaintiffs' assertion that only Barani land had fallen to the share of Tehal Singh. The Court concluded that had there been a prior partition in 1968, the same would have found mention in the said document, thereby rendering the plea of oral partition doubtful.

7.4 On these considerations, the first Appellate Court affirmed the findings of the trial Court and dismissed the appeal vide judgment dated 17.10.1992.

8.1 **Contentions of Appellants** : Assailing the aforesaid findings, Learned senior counsel for the appellants contends that the Courts below erred in discarding the plea of oral partition merely because it was not reflected in the revenue record. It is argued that under Section 123 of the Punjab Land Revenue Act, 1887, reporting of an oral partition is not mandatory and absence of its entry does not invalidate such partition. It is further submitted that the oral family settlement of June 1968 was duly acted upon, as evidenced by subsequent exchange of land by Bhagat Singh with Nirmal Singh, which was sanctioned through mutation. The conduct of Tehal Singh in selling his allotted land and shifting to another village is also relied upon to show that the partition had been implemented in reality.



8.2 Ld. Counsel further argues that defendant No.1 Harnam Singh has been wrongly held to be a bona fide purchaser. Being a resident of the same village and owning adjoining land, he was well aware of the prior oral partition. Despite such knowledge, he entered into the agreement to sell and later obtained the sale deed, and therefore, cannot claim protection as a bona fide purchaser.

8.3 On these premises, it is prayed that the concurrent findings of the Courts below be set aside and the suit of the plaintiffs be decreed.

9.1 **Response by Respondents** : Learned counsel for the respondents, on the other hand, supports the concurrent findings recorded by both the Courts below and contends that no interference is warranted in second appeal. It is argued that the alleged oral partition of 1968 has not been proved by any reliable evidence. The revenue record consistently reflects the property as joint, and even subsequent transactions, including the sale deed executed by Tehal Singh, show transfer of only an undivided share, without any reference to prior partition.

9.2 It is further submitted that the plaintiffs themselves acted in a manner inconsistent with their plea by acknowledging the joint nature of the property in earlier proceedings. The alleged exchange of land has also not been duly proved in accordance with law.

9.3 Ld. Counsel contends that defendant No.1 Harnam Singh is a bona fide purchaser, having purchased the suit property from a recorded co-sharer for valuable consideration and having obtained possession through lawful partition proceedings.

9.4 On these grounds, it is prayed that the appeal be dismissed as it raises no substantial question of law and is devoid of merit.

10. **Substantial Questions of Law** : Having heard learned counsel for the parties and perused the record, this Court finds that the following substantial questions of law arise for consideration:



- Whether mere non-reflection of an oral partition in the revenue record is sufficient to discard such a plea;
- Whether a purchaser from a co-sharer can be denied the status of a bona fide purchaser on the basis of an unproved oral partition; and
- Whether the concurrent findings suffer from perversity so as to warrant interference under Section 100 CPC.

11. **Consideration by this Court :** It is well settled that an oral partition is legally permissible and need not necessarily be reflected in the revenue record. However, the burden to prove such partition lies squarely on the party asserting it. In the present case, both the Courts below have, upon detailed appreciation of the evidence, found that the plaintiffs failed to discharge this burden. The oral evidence led by them was found to be unreliable and lacking in credibility. Even the witnesses examined by the plaintiffs did not inspire confidence and, in fact, introduced inconsistencies with regard to the nature of partition.

12. Significantly, the conduct of the parties is wholly inconsistent with the plea of prior partition. Tehal Singh, who is alleged to have been a party to the partition, executed a sale deed in 1978 conveying only an undivided share in the joint holding, without any reference to partition. Further, the plaintiffs themselves initiated partition proceedings before the revenue authorities, thereby acknowledging the joint nature of the property. These circumstances assume considerable importance and undermine the case set up by the plaintiffs.

13. Though non-entry of partition in the revenue record is not conclusive, it remains a relevant circumstance, particularly when coupled with absence of reliable evidence and inconsistent conduct of the parties.

14. The concurrent findings of the Courts below, therefore, cannot be said to be based merely on absence of revenue entries but on a holistic appreciation of the entire evidence on record.



15. As regards the plea that defendant No.1 is not a bona fide purchaser, it is evident that he purchased the property from a recorded co-sharer and was duly entered as such in the revenue record. He also obtained possession through partition proceedings conducted by the competent authority. The assertion that he had prior knowledge of an alleged oral partition remains unsubstantiated. Mere residence in the same village cannot lead to an inference of notice of a private and unrecorded arrangement.

16. Insofar as the scope of interference under Section 100 CPC is concerned, it is trite that concurrent findings of fact cannot be interfered with unless shown to be perverse or based on misreading of evidence. In the present case, no such perversity or illegality has been demonstrated. Rather, the findings recorded by the Courts below are well reasoned and supported by the evidence on record.

17. Once the plea of oral partition fails, the entire foundation of the plaintiffs' case collapses, and the challenge to the sale deed executed by a co-sharer cannot be sustained.

18. **Conclusion** : Consequently, the substantial questions of law, as framed, are answered against the appellants. The present appeal, being devoid of merit, is hereby dismissed.

(DEEPAK GUPTA)  
JUDGE

20.03.2026

Neetika Tuteja

Whether speaking/reasoned?  
Whether reportable?

Yes/No  
Yes/No

Uploaded on.: 20.03.2026