



2026:PHHC:046148

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IN THE HIGH Court OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.2626 of 1996 (O&M)

Jagir Singh and another

. . . Appellants

vs.

Davinder Singh and others

. . . . Respondents

Reserved on: March 18, 2026

Pronounced on: March 24, 2026

Pronounced fully/operative part : Fully

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CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Argued By:- Mr. Puneet Gupta, Advocate for the appellants.

Mr. Daldeep Singh, Advocate for the respondents.

DEEPAK GUPTA, J.

This Regular Second Appeal has been preferred by the plaintiffs against the judgment and decree passed by the First Appellate Court, whereby the suit filed by them for declaration and permanent injunction, which had been decreed by the trial Court vide judgment dated 26.03.1992, came to be reversed and dismissed vide judgment dated 09.08.1996.

2. For the sake of convenience, the parties are being referred to as per their status before the trial Court. The record of the Courts below, available on DMS, has been perused.

3. The plaintiffs are the sons of the sole defendant Saudagar Singh. Their case, as set up in the plaint, is that the suit property was inherited by their father from his predecessor Gurdit Singh and, therefore, it assumed the character of ancestral coparcenary property. It is claimed that by virtue of their birth, the plaintiffs acquired a right in the suit property and became coparceners. It was further pleaded that a family settlement had taken place, in terms whereof, the suit land fell to the share of the plaintiffs and they came into cultivating possession thereof. Alleging that the defendant, on the strength of



contrary revenue entries, was threatening to interfere in their possession, the plaintiffs instituted the suit seeking declaration of ownership in equal shares along with consequential relief of permanent injunction.

4. The defendant contested the suit by asserting that the suit property was self-acquired property and not ancestral in nature. The alleged family settlement was denied. Preliminary objections regarding maintainability, locus standi, and non-joinder of necessary parties were also raised. On merits, while the relationship between the parties was not disputed, the claim of the plaintiffs regarding coparcenary rights was specifically refuted.

5. The trial Court, upon appreciation of the evidence on record, decreed the suit holding that the property was ancestral in nature and that a family settlement had taken place, in which the plaintiffs were allotted shares. Consequently, the defendant was restrained from interfering in their possession.

6.1 However, in appeal, the First Appellate Court reversed the said findings. It was held that the plaintiffs had failed to prove that the suit property was ancestral coparcenary in nature. The Appellate Court noticed that although the plaintiffs had relied upon Jamabandis and Khasra Girdawari entries, they had failed to produce the crucial revenue excerpts or pedigree table to establish that the property had descended through the requisite generations so as to acquire the character of ancestral property. It was further observed that the oral assertion that part of the property had been purchased from income of ancestral property was beyond the pleadings and, therefore, could not be relied upon.

6.2 The First Appellate Court also found that even though the defendant had admitted that a small portion of land measuring about 4–5 Killas was ancestral, there was no evidence to identify the specific portion of such land. On the contrary, the evidence on record indicated that a substantial part of the property had been purchased by the defendant in his own name, thereby retaining its character as self-acquired property. The contention of the plaintiffs that adverse inference should be drawn against the defendant for non-production of sale deeds was rejected on the settled principle that a plaintiff



must succeed on the strength of his own case and cannot take advantage of any weakness in the defence.

6.3 With regard to the alleged family settlement, the First Appellate Court held that there was no cogent evidence to prove the same. No particulars such as the date, manner, or terms of such settlement had been brought on record. The Appellate Court further observed that the revenue entries showing possession of the plaintiffs only reflected their status as sons of co-sharer i.e., defendant and did not confer any independent title upon them. Accordingly, the suit was dismissed.

7. Assailing the said judgment, learned counsel for the appellants has argued that the First Appellate Court erred in reversing the well-reasoned findings of the trial Court and that the ancestral nature of the property stood admitted, at least to some extent, by the defendant.

8. On the other hand, learned counsel for the respondents has supported the impugned judgment and contended that the findings recorded by the First Appellate Court are based on proper appreciation of evidence and do not warrant interference in second appeal.

9. Having heard learned counsel for the parties and upon perusal of the record, this Court finds no merit in the present appeal.

10. It is well settled that in order to establish that a property is ancestral coparcenary property under Hindu law, it must be shown that the same has descended from the paternal ancestors through successive generations. A mere assertion that the property was inherited from the father is not sufficient to establish its ancestral character.

11. In the present case, the plaintiffs have failed to produce any cogent evidence, much less the necessary revenue pedigree or excerpt, to establish such lineage. In the absence of proof that the property had descended through the requisite generations, the findings recorded by the First Appellate Court that the property is not ancestral cannot be faulted.



12. Even the plea that part of the property had been purchased from the income of ancestral property cannot advance the case of the plaintiffs, firstly, because there is no such pleading in the plaint and, secondly, because the evidence on record indicates that a substantial portion of the land was acquired by the defendant in his own name. In such circumstances, the property cannot be treated as ancestral merely on the basis of vague assertions.

13. Further, the alleged family settlement remains unsubstantiated. No documentary evidence or reliable oral testimony has been produced to prove its existence or terms. The absence of such evidence renders the claim of the plaintiffs wholly untenable.

14. The entries in the revenue record showing possession of the plaintiffs do not advance their case either, as such possession is recorded in their capacity as sons of the defendant, who is co-sharer, which in law is deemed to be possession on behalf of the father and not independent ownership.

15. It is also pertinent to note that the jurisdiction of this Court in a Regular Second Appeal under Section 100 CPC is confined to substantial questions of law. The findings recorded by the First Appellate Court are findings of fact based on proper appreciation of evidence and are neither perverse nor contrary to law. No substantial question of law arises for consideration in the present appeal.

16. In view of the foregoing discussion, this Court finds that the First Appellate Court has rightly reversed the judgment of the trial Court and dismissed the suit of the plaintiffs. No interference is called for.

17. Accordingly, the present Regular Second Appeal is dismissed as being devoid of any merit.

March 24, 2026

Sarita

(DEEPAK GUPTA)

JUDGE

Whether speaking/reasoned? : Yes/No

Whether reportable? : Yes/No

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