



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

(133)

RSA-1791-2026 (O&M)
Date of Decision: **11.05.2026**

PANNU LAND DEVELOPERS PVT LTD

... Appellant

Versus

PAVITTAR SINGH AND ANOTHER

... Respondents

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CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Rajinder Goyal, Advocate with
Ms. Devyani Sharma, Advocate
for the appellant.

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VIRINDER AGGARWAL, J. (Oral)

1. The present Regular Second Appeal (hereinafter to be referred as 'RSA' for short) is preferred against the decree and judgment dated 07.01.2026, whereby the learned First Appellate Court dismissed the appeal preferred by the appellant-defendants. By way of the impugned judgment, the learned Court below has affirmed the judgment and decree dated 05.08.2019 rendered by the learned Civil Judge (Junior Division), Ludhiana, which had decreed the suit in favor of the respondents. The appellant-defendants now approach this Court, assailing the concurrent findings of the Courts below on the grounds of patent illegality and the involvement of substantial questions of law.

2. The controversy arises in the following factual backdrop is that the parties are co-sharers in the suit land. The defendant-company



claims title through a series of successive transfers originating from one of the co-sharers, namely Tehal Singh, who sold land measuring 7 Kanals 5 Marlas out of the joint khewat. The said property was initially transferred in favour of M/s Essko Projects Limited, thereafter conveyed to M/s Acme Projects Private Limited, and ultimately came to vest in the present appellant–defendants by virtue of a registered sale deed executed by M/s Acme Projects Private Limited. It has been specifically pleaded by the respondent–plaintiffs that despite the execution of the sale deed, actual physical possession of any specific portion of the joint holding was never delivered to the appellant–defendants. It is further alleged that the appellant–defendants, without seeking partition of the joint khata, intend to carve out a colony and raise construction over the joint property, thereby prejudicially affecting the rights and interests of the co-sharers. Hence, the suit came to be instituted.

3. The suit was contested by the appellant–defendants, who asserted that they are in actual, physical, and exclusive possession of the land purchased by them. It was further contended that, after obtaining requisite approvals from the competent governmental authorities, the appellant–company had undertaken the development of a mega industrial project over the said land. The appellants further denied that the respondent–plaintiffs were in joint possession of the property and asserted their independent possessory rights thereupon.

4. Upon contest and appreciation of the pleadings and evidence adduced by the parties, the learned Trial Court decreed the suit and held



that the respondent–plaintiffs, being co-owners in joint possession of the suit property, were entitled to a decree of permanent injunction restraining defendant No.1 from raising any construction over the suit land without first effecting lawful partition thereof.

4.1. The appeal preferred by the appellant–defendants came to be dismissed by the learned First Appellate Court, which affirmed the findings as well as the decree passed by the learned Trial Court.

5. Learned counsel appearing on behalf of the appellant–defendants contended that both the Courts below failed to correctly appreciate the pleadings and evidence available on record. It was argued that the exclusive possession of the appellant–defendant company over the land purchased by it has never been disputed and, therefore, the appellants were fully competent to utilize the said land and raise construction thereupon. It was further contended that, in such circumstances, the only remedy available to the respondent–plaintiffs was to seek partition of the joint holding and not to restrain the appellants from exercising possessory rights over the property in their occupation. In support of the said contention, reliance has been placed upon the Full Bench judgment of this Court in *Ram Chander vs. Bhim Singh and Others, 2008(3) PLR 747*, wherein, in para No.16, it was held as under:-

16. A joint owner/co-owner, just as an individual owner, has an inherent right to alienate the joint property, limited to the extent and the nature of his share holding. Upon transfer of his share or a part thereof, a co-sharer transfers only such rights as vest in him as a joint owner, namely, his specified share or a part thereof in the



community of joint owners with commonality of possession. A vendee from such a joint owner or a co-sharer would, therefore, receive the property so transferred, with all the rights and liabilities that vested in his vendor, namely, a right to assert a community of interest (ownership) and a commonality of possession in the entire joint estate and along with the entire body of joint/co-owners. Our above conclusion draws sustenance from Section 44 of the Transfer of Property Act and a reproduction thereof would place our conclusions in perspective, as under:-

"44. Transfer by one co-owner. Where one or two or more co-owners of immovable property legally competent in that behalf transfers his share of such property or any interest therein, the transferee acquires as to such share or interest, and so far as is necessary to give, effect to the transfer, the transferor's right to joint possession or other common or part enjoyment of the property, and to enforce a partition of the same, but subject to the conditions and liabilities affecting at the date of the transfer, the share or interest so transferred."

5.1. Learned counsel for the appellant-defendants further drew the attention of this Court to para No.18 of the aforesaid Full Bench judgment, wherein the legal position governing the rights and liabilities of co-sharers in joint property was further elucidated in the following terms:-

18. It is, therefore, apparent that a co-owner has an interest in the entire property and also in every parcel of the joint land. When a co-sharer alienates his share or a part thereof in the joint holding what he brings forth for sale is what he owns ie. a joint undivided interest in the joint property. A sale, therefore, of land from a



specific khasra/killa number, forming part of a specific rectangle number, but being a part of a joint khewat, would, in view of the nature of the rights conferred upon a co-sharer, be deemed to be the sale of a share from the joint khewat and such a vendee would be deemed to be a co- owner/co-sharer in the entire joint khewat, irrespective of the artificial divisions of the joint land into different rectangles, khasra and killa numbers.

6. He further contended that a Division Bench of this Court in ***Bachan Singh vs. Swaran Singh, 2000(3) PLR 416***, while examining the scope of possessory and proprietary rights of co-sharers in joint property, has authoritatively laid down the following proposition of law:-

15. On a consideration of the judicial pronouncements on the subject, we are of the opinion that :
 - (i) a co-owner who is not in possession of any part of the property is not entitled to seek an injunction against another co-owner who has been in exclusive possession of the common property unless any act of the person in possession of the property amounts to ouster, prejudicial or adverse to the interest of co-owner out of possession.
 - (ii) Mere making of construction or improvement of, in, the common property does not amount to ouster.
 - (iii) If by the act of the co-owner in possession the value or utility of the property is diminished, then a co-owner out of possession can certainly seek an injunction to prevent the diminution of the value and utility of the property.
 - (iv) If the acts of the co-owner in possession are detrimental to the interest of other co-owners, a co-owner out of possession can



seek an injunction to prevent such act which is detrimental to his interest.

In all other cases, the remedy of the co-owner out of possession of the property is to seek partition, but not an injunction restraining the co-owner in possession from doing any act in exercise of his right to every inch of it which he is doing as a co-owner.

7. The appellant's counsel, placing reliance on the judgment of a Co-ordinate Bench of this Court in ***Babrubhan vs. Surender Pal and Others, 2020(4) PLR 504***, contended that the sole remedy available to a co-owner out of possession is to seek partition. It was argued that a co-owner cannot be enjoined from raising construction over a portion of the joint holding in their exclusive possession. The appellant further asserted that both the Courts below failed to appreciate this settled legal position, resulting in an erroneous decree and the subsequent dismissal of the first appeal.

7.1. While it is a recognized principle that a co-owner in exclusive possession of joint land generally cannot be restrained from raising construction, the Full Bench in ***Ram Chander vs. Bhim Singh and Others (supra)*** has clarified that a vendee from a joint owner stands in the shoes of their vendor, possessing a community of interest and commonality of possession over the entire estate alongside the other co-sharers. In the present case, the intended actions of the appellant-defendants specifically the establishment of a mega industrial project with the intent to subsequently alienate the property operate in derogation of the rights of the



other co-owners. Such an act is inherently detrimental to the collective interest and effectively amounts to the ouster of the other co-sharers from the joint holding.

8. Adhering to the law laid down by the Division Bench of this Court in *Bachan Singh vs. Swaran Singh (supra)*, an injunction may be granted if the conduct of the co-owner in possession is prejudicial to the interests of those out of possession. Given that the construction of a large-scale industrial project without a prior partition of the joint holding constitutes a clear detriment to the other co-sharers, the Courts below were justified in decreeing the suit and dismissing the first appeal. Finding no infirmity in the concurrent findings of the Courts below, this appeal, being devoid of merit, is hereby **dismissed**.

9. In view of the final adjudication of the principal *lis*, all pending miscellaneous application(s), if any, arising out of or ancillary to the present proceedings, shall also stand disposed of accordingly. In light of the conclusions recorded here-in-above, no separate or further orders are required to be passed in respect thereof, the same having been rendered infructuous and devoid of surviving cause for consideration.

11.05.2026
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No