

PUNJAB AND HARYANA HIGH COURT

SINGLE BENCH

(Before : Parmod Goyal, J.)

M/S ASTRA LIGHTING LTD. LALRU THROUGH ITS CHAIRMAN

Vs.

SANJAY KUMAR AND OTHERS

RSA-669-2026 (O&M)

Decided on : 16-07-2026

A. Transfer of Property — Sale by co-sharer in excess of share — Effect on rights of true owner — Where a co-sharer sells land in excess of his own share, encroaching upon the share of another co-sharer, the sale deed to that extent is void ab initio and does not bind the rights of the true owner whose share was wrongly alienated, notwithstanding that the vendee subsequently transferred the land to further purchasers. [Paras 10-11]

B. Evidence — Revenue records — Proof of extent of co-sharer's holding and prior sales — Jamabandi entries recorded prior to the impugned sale, showing cumulative extent of land already alienated by the vendor to various persons, are reliable documentary evidence to establish that the vendor had exhausted his share before executing the disputed sale deed; concurrent findings of fact based on such revenue records are not liable to be disturbed in second appeal absent perversity. [Para 11]

C. Civil Procedure Code, 1908 (CPC) — Order I Rule 9/necessary party — Suit for declaration based on sale deed — Non-joinder of vendor — In a suit for declaration and possession founded on a sale deed executed by the plaintiff's vendor, the vendor is not a necessary party where he does not dispute execution of the sale deed and no relief is claimed against him; his capacity to sell can be examined in his absence, and non-joinder does not vitiate the suit. [Paras 12-13]

D. Bona fide purchaser — Duty to verify vendor's title from revenue records — Plea negated — A purchaser who could have ascertained, from a bare perusal of the jamabandi, that the vendor had no subsisting share in the property, but fails to make reasonable inquiry, cannot claim the status of a bona fide purchaser for value without notice; such circumstances may suggest collusion between successive vendors to appropriate another co-sharer's share. [Para 14]

E. Limitation — Suit to challenge void sale deed — Starting point — Date of knowledge — A sale deed executed without authority and void ab initio, being non-binding on the true owner, can be challenged within three years from the date of knowledge of such sale, not from the date of its execution — Where the true owner and his vendee had no knowledge of the unauthorized sale until it was detected during partition proceedings, the suit challenging the sale is not barred by limitation. [Para 15]

F. Second Appeal — Concurrent findings of fact based on documentary evidence — No interference — Where courts below have recorded concurrent findings of fact, duly supported by revenue records, regarding the extent of a co-sharer's share and the consequent invalidity of sales made in excess thereof, no substantial question of law arises warranting interference in second appeal, and the appeal is liable to be dismissed. [Para 16]

Counsel for Appearing Parties

Mr. Ravish Kaushik, Advocate and Mr. Abhishek Bhardwaj, Advocate for the Appellant.

JUDGMENT

Parmod Goyal, J. (Oral) - Present regular second appeal has been preferred by appellant-defendant No.2 being aggrieved by judgment and decree dated 04.12.2018 passed by the then learned Civil Judge (Senior Division), Dera Bassi whereby suit for declaration, possession and permanent injunction preferred by respondent No.1-plaintiff was decreed and also by judgment and decree dated 17.12.2025 passed by learned Additional District Judge, Mohali, SAS Nagar whereby first appeal preferred by appellant-defendant No.2 was dismissed.

2. In the suit for declaration, possession and permanent injunction respondent No.1-plaintiff had asserted that he had purchased land measuring 4 Bighas 2 Biswas 17 Biswasi in Village Kouli Majra, Tehsil Dera Bassi, District S.A.S. Nagar from one Krishan Singh son of Amar Singh vide sale deed bearing No.2354 dated 20.06.2008. That after purchase of the said land, since the land was joint and in possession of different co-sharers, he moved an application for partition of land before the Court of Assistant Collector, Dera Bassi vide misal No.18 dated 20.04.2012 which was decided on 17.01.2014. In partition proceedings, revenue authorities had reported that Ajmat Singh son of Amar Singh had sold the land in excess of his share and therefore, the partition proceedings could not be proceeded further and were stopped by the revenue authorities.

3. It was claimed that Ajmat Singh was owner in possession of 32 Bighas 18 Biswas and had sold land in excess of his share which he was not entitled to do so and the sale deed bearing vasika No.1108 dated 11.06.1990, sold by Ajmat Singh to respondent No.5-defendant-Sham Lal and sale deed bearing vasika No.4055 dated 09.12.1997 whereby land was sold by respondent No.5-defendant-Sham Lal to appellant-defendant No.2 are null and void, and do not effect rights, title and interest of respondent No.1-plaintiff.

4. It was further claimed that Ajmat Singh was co-sharer to the extent of 4/15th share in the total land measuring 123 Bighas 7 Biswas. Out of 4/15th share, Ajmat Singh, however, sold land measuring 11 Bighas 8 Biswas in excess of his share. Initially, the land measuring 17 Bighas 7 Biswas was sold by Ajmat Singh along with Thath Singh to Desa Singh and mutation No.1257 was sanctioned to this effect. Again, Ajmat Singh had sold the land measuring 20 Bighas 8 Biswas to one Nachattar Kaur wife of Gian Chand. He also sold land measuring 4 Bighas to Bimla Devi wife of Jagdish Singh and mutation No.1647 to this effect was recorded. Land measuring 4 Bighas 16 Biswas was sold to Krishan Singh as per the jamabandi for the year 1983-84 and mutation No.1621 in this regard was sanctioned. Thereafter, another piece of land measuring 6 Bighas 9 Biswas was sold to respondent No.5-defendant-Sham Lal son of Tulsi Ram which was recorded vide mutation No.1669.

5. It was asserted that the land sold by Ajmat Singh vide Vasika No.1108 dated 11.06.1990 was in excess of his share and he had no right to sell the same as he had already sold his entire share. It was claimed that the land owned by respondent No.1-plaintiff was purchased from Krishan Singh, another co-sharer who happens to be the brother of Ajmat Singh and since Ajmat Singh had no right to sell the property owned by Krishan Singh, sale deed dated 11.06.1990 and 09.12.1997 are not binding on the rights of respondent No.1-plaintiff. Accordingly, declaration was sought that it is respondent No.1-plaintiff who is owner of suit property in view of sale deed dated 20.06.2008 stated to be executed by Krishan Singh owner of suit property in favour of respondent No.1-plaintiff.

6. In its written statement, appellant-defendant No.2 had taken number of preliminary objections regarding maintainability of suit etc. It was claimed that Krishan Singh, vendor of respondent No.1-plaintiff had no share in the joint land and therefore, sale deed dated 20.06.2008 has no binding value. It was claimed that suit is barred by limitation as two sale deeds which were executed by Ajmat Singh on 11.06.1990 and 09.12.1997, were challenged only in the year 2014. Appellant-defendant No.2 also claimed himself to be bona fide purchaser for valuable consideration and claimed that after purchase of suit property, it had also raised construction and is running business over the suit land. Appellant-defendant No.2 had denied the factum of partition proceedings and claimed that no notices regarding partition were ever served upon it and accordingly, it also claimed possession over the suit land since it was duly purchased by appellant defendant No.2 and accordingly, dismissal of suit was sought.

7. From the pleadings of the parties, following issues were framed:-

- i. Whether the plaintiff is entitled for declaration, as prayed for? OPP
- ii. Whether the plaintiff is entitled for permanent injunction, as prayed for? OPP
- iii. Whether the plaintiff has no locus standi to file the present suit? OPD
- iv. Whether the suit of plaintiff is time barred? OPD
- v. Whether the plaintiff is liable to be dismissed on ground of non-joinder of necessary parties? OPD

- vi. Whether the plaintiff has no cause of action to file the present suit? OPD
- vii. Whether the present suit is not maintainable? OPD
- viii. Whether the present suit is bad for issuance of notice under Section 80 of CPC? OPD
- ix. Relief.

8. The case of respondent No.1-plaintiff in the present case is that Ajmat Singh and Krishan Singh, both were co-sharers holding the land jointly. However, Ajmat Singh had sold land in excess of his share which was 4/15th share in the joint suit land and any sale made by Ajmat Singh in excess of his share in favour of respondent No.5-defendant-Sham Lal (vendor of respondent No.1-plaintiff) then in favour of appellant-defendant No.2, out of share of Krishan Singh, is not binding and is null and void.

9. On the other hand, appellant-defendant No.2 has claimed that Krishan Singh has no right or share in the suit property and that suit is barred by limitation as sale deeds executed by Ajmat Singh on 11.06.1990 as well as on 09.12.1997 by subsequent purchaser respondent No.5-defendant-Sham Lal in favour of appellant-defendant No.2 were challenged after more than 20 years.

10. After consideration of evidence led by both the sides, both the Courts have given concurrent findings of facts that Ajmat Singh had sold land in excess of his share and in fact he had sold land vested and owned by Krishan Singh without any authorization to respondent No.5-defendant-Sham Lal who then sold it to appellant-defendant No.2. Therefore, it was held that sale deed executed by Ajmat Singh in favour of respondent No.5-defendant-Sham Lal on 11.06.1990 and sale deed executed in favour of appellant-defendant No.2 on 09.12.1997 were null and void as they did not pass any title in favour of respondent No.5-defendant-Sham Lal or appellant-defendant No.2 as Ajmat Singh himself had no title in land.

11. On consideration, I find that the above-noted findings recorded by learned Courts below are based upon revenue records which were duly produced before the learned Court of First Instance. From evidence led by both the parties, it is clearly made out that joint khewat bearing No.43 was comprised of 123 Bighas 7 Biswa. It is also not in dispute that Ajmat Singh and Krishan Singh who were real brothers each had 4/15th share which comes out to be 32 Bighas 18 Biswas each in this khewat. Perusal of jamabandi for the year 1988-89 Ex.P-16 in fact goes to show records of sale already made by Ajmat Singh to various persons upto different extents. Jamabandi for the year 1988-89 Ex.P-16 which was recorded prior to sale made to respondent No.5-defendant-Sham Lal in the year 1990 in fact goes to show that 20 Bigha 8 Biswas was sold by Ajmat Singh to Nachattar Kaur then 4 Bigha 16 Biswa were sold to Krishan Singh and 8 Bigha 14 Biswas were sold to Desa Singh. In fact Ajmat Singh along with Thath Singh had sold total land of 17 Bighas 7 Biswas, out of which 8 Bigha 7 Biswas belonged to Ajmat Singh. Thereafter, 4 Bighas 0 Biswa was sold to Bimla Devi. All the sales of land measuring 37 Bighas 18 Biswas, were sold prior to year 1990 i.e. before execution of sale deed in favour of respondent No.5-defendant-Sham Lal predecessor-in-interest of appellant-defendant No.2 from whom appellant-defendant No.2 had purchased it in the year 1997. Therefore, on the date of sale in favour of respondent No.5-defendant-Sham Lal in the

year 1990 and when sale was made by him in the favour of appellant-defendant No.2 in year 1997, Ajmat Singh had no capacity to execute sale deed in favour of respondent No.5-defendant-Sham Lal. This concurrent finding of fact as recorded by learned Courts below cannot be shown to be wrong. No evidence was led to show that Krishan Singh was not having share in suit property as was claimed in written statement or that the sale deed was executed by Krishan Singh without having any share in the suit property. Revenue records in fact duly establish share of Krishan Singh in suit property to the extent 4/15th Bighas and therefore, the Courts have rightly concluded that Krishan Singh had sold the suit property in the year 2008 pertaining to his share and therefore, the sale deed executed in favour of respondent No.1-plaintiff was valid.

12. Faced with above findings of learned Courts below as well as this Court, learned counsel for the appellant-defendant No.2 has argued that Krishan Singh was not made party in the present case and therefore, suit was liable to be dismissed for non-joinder and mis-joinder of parties. Present is not a suit for partition. Present is a suit wherein respondent No.1-plaintiff is seeking to enforce his rights and seek declaration that sale deed executed in his favour by Krishan Singh on 20.06.2008 was a valid document and Krishan Singh had capacity to sell the same. Krishan Singh is not disputing execution of sale deed as no suit or claim was ever made by Krishan Singh against respondent No.1-plaintiff.

13. In these circumstances, Krishan Singh is not a necessary party. In the present case, in the suit for declaration and possession on the basis of sale deed executed by Krishan Singh, the capacity of Krishan Singh can be seen in his absence and is not necessary for him to join the suit proceedings as no cause of action or claim has arisen against him nor any relief has been sought against him.

14. Learned counsel for the appellant-defendant No.2 has also claimed that appellant-defendant No.2 and respondent No.5-defendant-Sham Lal were bona fide purchaser for consideration, however, this plea is also without basis. From the revenue records, especially jamabandi for the year 1988-89 Ex.P-16 it is clearly made out that Ajmat Singh had no right in the suit property. When bare perusal of jamabandies show that Ajmat Singh had no share in property, in such circumstances, neither respondent No.5-defendant-Sham Lal nor appellant-defendant No.2 can be held to be bona fide purchaser. It appears that Ajmat Singh and respondent No.5-defendant-Sham Lal may be hand in glove in order to grab the property owned by Krishan Singh by making sale in excess of his share. Neither respondent No.5-defendant-Sham Lal nor appellant-defendant No.2 who could have detected share of Ajmat Singh from revenue records had made reasonable efforts to find out capacity of Ajmat Singh to sell suit land. Therefore, they cannot be held to be bona fide purchaser for consideration.

15. Learned counsel for the appellant-defendant No.2 has also challenged judgments passed by learned Courts below on the ground of limitation. It is stated that sale deed executed on 11.06.1990 and 09.12.1997 were challenged in the year 2014 and therefore, suit was barred by limitation. The arguments on first look appear to be attractive. However, on close scrutiny, same is without any merit. Since, the sale deeds executed by Ajmat Singh were without any authorization and Ajmat Singh had no right to sell the suit property in excess of his share which he had already sold, therefore, the sale deeds executed in the year 1990 and 1997 were void ab initio and not binding on the rights of

true owner and could have been challenged within three years of date of knowledge. In the present case, neither Krishan Singh nor respondent No.1-plaintiff had any knowledge of the sale deeds and they were not aware that Ajmat Singh had sold the suit property in excess of his share. They came to know about the sale by Ajmat Singh only on filing of partition proceedings and it was only in partition proceedings that revenue authorities had detected that Ajmat Singh had sold the land beyond his share. Therefore, it cannot be held that the suit is barred by limitation.

16. In view of above discussions, there is no merit in the present appeal, hence same is dismissed.

17. Pending application(s), if any, is/are disposed of accordingly.