

**IN THE HIGH Court OF PUNJAB AND HARYANA AT CHANDIGARH****136****RSA-2800-2024 (O&M)****Date of decision: 20.04.2026****Rameshwar Dass and another****...Appellant(s)****Vs.****Krishna Devi and another****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. S.S.Mor, Advocate for the appellants.

Mr. Sanjeev Kumar Sharma, Advocate
for the caveator/respondent No.1.

NIDHI GUPTA, J.

Present second appeal has been filed by the defendants No. 2 and 3 against the concurrent judgments and decrees of the learned District Courts, whereby suit filed by the plaintiff/respondent No.1, for separate possession by way of partition with consequential relief of permanent injunction, has been decreed by both the District Courts. Defendant No.1 is impleaded herein as proforma respondent No.2.

2. Brief facts of the case are that the plaintiff is the real sister of the defendants. Earlier the suit property as described in the plaint was in the ownership of their father Sh. Rup Chand son of Sheo Chand. Rup Chand had died on 06.01.2023 leaving behind the plaintiff and defendants as LR's. It was pleaded in the plaint that after the death of Rup Chand, suit property was owned and possessed in equal share i.e. 1/4th share each, by all the parties. It was alleged that thereafter, suit land was partitioned



verbally; and since then, the plaintiff was in unhindered possession upon the suit property. However, now the defendants have become dishonest and in collusion with each other, had sought to dispossess the plaintiff. Plaintiff had requested the defendants not to interfere in the peaceful possession but to no avail. Hence, present suit was filed on 26.02.2021.

3. Upon appraisal of the pleadings and the evidence led by the parties, the Id. Civil Judge (Junior Division), Panipat had decreed the suit of the plaintiff vide judgment and decree dated 10.04.2023 as follows: -

“27. In view of findings on aforesaid issues, present suit of plaintiff succeed and is decreed with costs. Preliminary decree for partition of suit property is passed to the extent that plaintiff is owner to the extent of 1/4 share in suit property. Defendants no. 1 to 3 are owner to the extent of 1/4 share each in the suit property. Decree for permanent injunction is also passed in favour of plaintiff restraining the defendants from alienating suit property more than their shares. Decree sheet be prepared accordingly. File be consigned to the Record room after due compliance.”

4. The Civil Appeal filed by defendants No. 2 and 3 was dismissed by the District Judge, Panipat vide judgment and decree dated 20.09.2024. Hence, the present second appeal by the defendants No.2 and 3.

5. It is *inter alia* submitted by learned counsel for the appellants that learned District Courts have failed to appreciate that plaintiff was neither owner nor in possession of the disputed property. She had failed to prove her case by leading cogent and convincing evidence. The learned



District Courts, while decreeing the suit of the plaintiff have wrongly relied upon documents of house tax assessment register which is not a document of title. In fact, these entries of the house tax assessment register are merely used and made by the Municipal Authorities to maintain the record of assessment and collection of house tax and such entries made in the Municipal record may not be a legal document of ownership of any person in regard to an immovable property. Rather, the purpose of maintaining this house tax register or their entries is only to levy the house tax for Municipal Corporation. Hence, the findings recorded by courts below on this aspect are illegal, erroneous, perverse and not legally sustainable in the eyes of law. It is trite law that the Municipal Corporation cannot decide the question of title and its record containing entries is maintained for fiscal purpose like property tax/House tax etc.

6. Learned counsel for the appellants further submits that from the facts stated above, it is clear that the plaintiff/respondent had filed a suit for separate possession by way of partition of the property measuring 65 x 28 i.e. 200 sq. yards situated at Pachranga Bazar, Nohra Wali Gali, Vardhman Handloom, Panipat on the basis of the property Tax ID No.P03702110359 and Old property ID No. PAN/W08/8176/0114 on the ground that the plaintiff and defendants are brothers and sister and after the death of Rup Chand the suit property was owned and possessed by the plaintiff and defendants in equal share; and thereafter the suit property was verbally partitioned amongst the plaintiff and the



defendants; and thereafter the plaintiff came into the possession over her share; but later on the defendants dispossessed the plaintiff from her share and had threatened to change the nature of the suit property and further they will alienate the suit property. On this ground the suit was filed. However, in the written statement the appellants have clearly denied the ownership of the plaintiff over the suit property, but the courts below have wrongly decreed the suit of plaintiff.

7. It is further submitted by learned counsel for the appellants that it has been averred by the plaintiff that the property was partitioned amongst all the co-sharers and she has been dispossessed from the suit property but she has not averred in the plaint that the suit property is joint one and the same has not been partitioned by metes and bounds. It is further submitted that although the plaintiff has claimed the partition of the property but she did not disclose in the plaint as to which part of the suit property falls in her share during the partition and has not claimed the possession of that specific portion in which she was in possession over the suit property. The suit itself without the averments of joint possession is not maintainable and partition cannot take place merely on the pleadings of the plaintiff.

8. It is accordingly prayed that the present Appeal be allowed; and the impugned judgment and decrees of the Id. District Courts be set aside.

9. *Per contra*, learned counsel for the caveator/respondent No.1 vehemently opposes submissions advanced on behalf of the appellants and



submits that the defendants have failed to produce any document to prove that they are exclusive owners to the estate of their father Rup Chand. It is submitted that no document by way of a Will or any such has been produced by the appellants to show as to why plaintiff is not owner of the suit property to the extent of 1/4th share by succession. As such, property has devolved by way of succession upon the parties; as was verbally agreed to between the parties at time of partition.

10. It is further submitted that there are concurrent findings of fact in favour of the plaintiff which cannot be disturbed by this Court in RSA.

11. In support, learned counsel for the caveator/respondent No.1 relies upon judgment passed by Hon'ble Supreme Court in ***M/s. Shivali Enterprises v. Godawari (Deceased) (SC): Law Finder Doc Id # 2034559*** wherein it is held that no matter howsoever incorrect or grossly erroneous the concurrent findings of the learned District Courts may be, this Court in the Second Appeal can interfere in the concurrent findings only where there is an error in law or procedure. In the present case, no such error in law and procedure has been made out by learned counsel for the appellants.

12. It is accordingly prayed that the present appeal be dismissed.

13. I have heard learned counsel for the parties and perused the case file in a great detail. I find merit in the submissions advanced on behalf of learned counsel for plaintiff/respondent No.1.

14. A perusal of the record of the case shows that to prove her case, plaintiff has stepped into the witness box as PW1. Plaintiff has further examined PW2 Kishan Chand, who had supported the case of the plaintiff



and reiterated the version of the plaint. Plaintiff has also produced documentary evidence in the form of Property Tax-Notice-cum-Bill Ex.P2 and Ex.P4 respectively; and Ex.P5, which is the Assessment-cum-Demand and Collection Notice for the year 2015-2016. The said documents have been duly proved from the evidence of PW5 Jaiveer Clerk Municipal Corporation, Panipat, who has identified the signatures of the Executive Officer M.C. Panipat on the documents Ex.P4 and Ex.P5. From perusal of these documents, it is established that property bearing ID no. P03702110359 of suit property is in the name of Sh. Rup Chand son of Sheo Chand as owner. It is also observed from perusal of these documents that old property ID was PAN/W08/B176/0114 and same was also in the name of Sh. Rup Chand.

15. Learned Trial Court has further given finding in para 20 of the judgment dated 10.04.2023. The relevant extract of which reads as follows:-

“.....It is also observed from perusal of documents Mark-A & Mark-C that the same documents are Oath Letter regarding partition and copy of Will. Although, these documents are not proved as per requirement of the evidence act, still they support and corroborate the case of the plaintiff that father of parties to the suit late Sh. Rup Chand son of Sh. Sheo Chand was owner of the suit property and after his death it was inherited by all parties to the suit”.

16. From the above documents, evidence, and findings, it is irrevocably established that Rup Chand was owner of the suit property.



17. Undisputedly, defendants are unable to prove their assertion in the written statement to the effect that they are owners and in possession of the suit property. As pointed out by learned counsel for respondent No.1, defendants have failed to produce any document to prove that the suit property was their self acquired property or that they had purchased it from any person. Rather in his cross-examination, defendant No.2 while appearing as DW1 has admitted that it is correct that after death of Rup Chand in 2003, there were 4 heirs - which is the plaintiff and the defendants. Even defendant No.3 in his cross-examination as DW2 has stated that after the death of their father, 4 heirs are the plaintiff and the 3 defendants. Clearly, therefore, in the absence of any specific bequeathment, suit property will devolve as per succession upon the LRs of Rup Chand viz parties herein.

18. Relevant findings of learned First Appellate Court in paras 18 and 19 of the judgment dated 20.09.2024 read as follows: -

“18. In order to prove her share in the disputed property, first of all the plaintiff has to prove on record the ownership of said Rup Chand over the disputed property. In support of her claim, the plaintiff besides appearing herself in the witness box, has examined one Kishan Chand son of late Veer Bhan as PW2, Naveen Jain, draftsman as PW3, Shokin clerk from Municipal Corporation, Panipat as PW4 and Jaiveer clerk from Municipal Corporation, Panipat as PW5. Besides this, the plaintiff has also placed and proved on record documentary evidence in the shape of site plan Ex.P1, copy of property tax notice-cum-bill Ex.P2, copy of death certificate of Rup Chand as Ex.P3, copy of property and fire tax detail Ex. P4 and copy of tax statement



Ex.P5. The plaintiff has relied upon the entries in the Municipal record to highlight how Rup Chand, father of the plaintiff has got right, title and interest over the disputed property. Learned trial Court has also relied upon the evidence led by the plaintiff. However, I do not find any merit in the evidence led by the plaintiff in this regard. It is trite law that the Municipal Corporation cannot decide the question of title and its record containing entries is maintained for fiscal purpose like property tax/House tax etc. Reliance in this regard can be placed upon Raj Kumar versus Hardit Singh (deceased) represented by his Crs, R.S.A. No.2441 of 1989 decided by our own Hon'ble High Court of Punjab and Haryana on 10.05.1993 and Lokesh Sanyal and others versus State of M.P. and others, First Appeal No.134 of 2002 decided by the Hon'ble High Court of Madhya Pradesh (DB) on 14.02.2007. In view of the law laid down in the above cited authorities, in the present case, the evidence led by the plaintiff, in my opinion, cannot decide the question of title of Rup Chand over the disputed property. However, at the same time, the defendants in their respective written statements have admitted about the ownership of Rup Chand over the disputed property. It is settled proposition of law that admission is the best evidence unless the party who has admitted it proves it to have been admitted under a wrong presumption or it could not have been otherwise factually correct. In Narayan Bhagwantrao Gosavi Balajiwale versus Gopal Vinayak Gosavi AIR 1960 SC 100, the Hon'ble Apex Court observed that admission is the best evidence that an opposing party can rely upon and though not conclusive, is decisive of the matter unless successfully withdrawn or proved erroneous. As such, when these facts have been admitted by the defendants themselves, nothing more was required to be



proved. As such, it is held that the disputed property was owned by Rup Chand.

19. It is also an admitted fact that Rup Chand had died on 06.01.2003. The plaintiff has also placed on record copy of death certificate of Rup Chand as Ex.P3. As per the case of the plaintiff, she along with her three brothers i.e. the defendants are the only legal heirs of her father. DWI Rameshwar Dass during his cross-examination has also admitted that Rup Chand is having four legal heirs. As per Indian Succession Act, succession rights to a property are divided into two groups of people. The first right over an inherited property is for class-I heirs, such as son, daughter, mother, widow and grandchildren. Class-II heirs are the father's brother, sister or any grandchildren if there is no class-I heirs. In the present case, admittedly, Rup Chand had died intestate. His wife is also stated to have died. As such, in absence of any such Will regarding the disputed property, the first right over the disputed property is for his class-I heirs i.e. the plaintiff and the defendants who are the daughter and sons of Rup Chand respectively. As such, the plaintiff and the defendants have equal share i.e. 1/4th each in the disputed property after the death of their father Rup Chand. Learned counsel for the appellants-defendants has argued that the disputed property has already been equally shared among the defendants and they have also raised construction over their respective shares over the disputed property. However, I am not inclined with the arguments so advanced by learned counsel for the appellants-defendants. The appellants-defendants have failed to lead any evidence to show that as to on what basis they have equally shared the disputed property among the brothers only. The plaintiff being daughter i.e. Class-I heir of the late Shri Rup Chand has every right, title and



interest over the property left by the latter. Neither any Will nor any family settlement has been placed or proved on record by the appellants-defendants to show that whether the plaintiff has been denied to his right over the disputed property and in absence of any such evidence on record, it cannot be held that the plaintiff has no right over the disputed property. Learned trial Court had also arrived at the conclusion that the plaintiff and the defendants being legal heirs of late Shri Rup Chand, are owner of the disputed property to the extent of 1/4th share each, though the findings as given by the learned trial Court were on different perspective, but the same cannot be stated to be perverse, illegal or based on mis-reading, non-reading or mis-appreciation of the material placed on record. Therefore, no ground for interference is made out. Hence, affirming the same, it is held that the appeal does not deserve to be allowed.”

19. Learned counsel for the appellants is unable to controvert or dispute the above said facts and findings.

20. In view of the discussion above, no ground is made out to interfere in the impugned judgments and decrees of the learned District Courts. The present regular Second Appeal is hereby **dismissed**.

21. Pending applications, if any, stand disposed of.

20.04.2026

Divyanshi

**(NIDHI GUPTA)
JUDGE**

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No