



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

1. **RSA-213-1998 (O&M)**  
**Reserved on :- 09.03.2026**  
**Date of Pronouncement:-18.03.2026**  
**Uploaded on:-19.03.2026**

Dharam Pal and Another

... Appellants

Versus

Jagdish Chand (Deceased) Through his LRs and Others

... Respondents

2. **RSA-214-1998 (O&M)**

Dharam Pal and Another

... Appellants

Versus

Jagdish Chand (Deceased) Through his LRs and Others

... Respondents

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**CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL**

Argued by :-

Mr. Raj Kumar Rana, Advocate  
for the appellants.

Mr. Pritam Singh Saini, Advocate with  
Ms. Parul Saini, Advocate  
for the respondents.

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**VIRINDER AGGARWAL, J.**

1. The present judgment shall dispose of two appeals preferred by the appellants against a common judgment and decree rendered in two consolidated suits, whereby the appeals were allowed and the judgment and decree passed by the learned Trial Court were set aside.



2. The factual matrix, in brief, is as under: The respondent–plaintiff, Jagdish Chand, instituted two civil suits which were ordered to be consolidated vide order dated 20.11.1993. The suits were founded on the averment that the parties are closely related to each other and that the suit land constitutes ancestral coparcenary property of a Joint Hindu Family. It was pleaded that the parties are governed by customary law and, under such custom, no member of the Joint Hindu Family is competent to alienate the ancestral property without consideration and legal necessity, and any such alienation effected by a member of the family is not binding upon the next reversioners.

2.1. It was further averred that defendant No.2, who is the uncle of the plaintiff, is an unmarried person of advanced age. Defendant No.1, who is the brother of the plaintiff, claims himself to be the adopted son of defendant No.2. According to the plaintiff, defendant No.1 had obtained a decree dated 15.10.1985 in Civil Suit No. 917-CS of 26.09.1985, titled *Raj Kumar vs. Sada Ram*, in respect of the suit land. However, the plaintiff asserted that defendant No.1 was never adopted by defendant No.2 and that the said decree and judgment amount to an unauthorized alienation of the suit land. It was further pleaded that the decree was obtained without consideration or legal necessity, and that the same was collusive in nature. Consequently, the decree was alleged to be illegal, null and void, and not binding upon the reversionary rights of the plaintiff.

2.2. The plaintiff further averred that he had earlier instituted a suit for injunction restraining the defendants from alienating the suit land, in which an ex parte ad interim injunction was granted in his favour vide order dated 28.09.1985, restraining Dhani Ram and Sada Ram from



alienating the suit land except in cases of legal necessity. Despite the said injunction order, the defendants allegedly suffered the decree dated 15.10.1985. As such, it was pleaded that the said decree was not binding upon the rights of the plaintiff. Although the earlier suit of the plaintiff was eventually dismissed on 28.04.1988, the suit land was held to be ancestral Joint Hindu Family property. It was further alleged that defendant No.1 was threatening to alienate the suit property. Hence, the present suits were instituted.

3. Upon notice, the defendants appeared and filed their written statement raising various preliminary objections, inter alia, that the suit was not maintainable, that the same was barred by the principle of res judicata, and that the plaintiff had no relationship with the defendants as alleged. It was further denied that the suit property was ancestral in nature or that the parties constituted a Joint Hindu Family. The allegations that the impugned transaction was without consideration or legal necessity were also specifically denied. The defendants asserted that defendant No.1 had been legally adopted by defendant No.2 and that defendant No.2 had transferred the suit land to defendant No.1 by way of a family settlement, which stood duly recognized in the civil suits filed by defendant No.1 against defendant No.2. On this premise, it was contended that defendant No.1 was fully competent to alienate the suit property.

4. After a careful and comprehensive examination of the pleadings, documents, and submissions advanced by the parties, the learned Trial Court framed the following issues for adjudication so as to facilitate a proper and effective determination of the respective claims and defences of the parties:-



1. Whether the decree dated 15.10.85 in Civil Suit No. 917/CS of 26.09.1985 is collusive, illegal, null and void without any consideration and in-effective, is so, then what effect? OPP.
2. Whether defendant No. 1 Raj Kumar was adopted son of Sada Ram? OPD.
3. Whether the suit is not maintainable in the present form?OPD.
4. Whether the plaintiff is estopped to file the present suit? OPD.
5. Whether the suit is barred by resjudicata? OPD.
6. Whether the suit is barred by limitation? OPD.
7. Relief.

5. The parties were afforded adequate opportunities to adduce evidence in support of their respective cases. Upon appreciation of the evidence and after hearing the arguments advanced by learned counsel for the parties, the learned Trial Court dismissed both the suits instituted by the plaintiff–Jagdish Chand.

5.1. Aggrieved by the aforesaid judgment and decree, the plaintiff–Jagdish Chand preferred three separate appeals against the common judgment and decree dated 31.10.1996, whereby the two civil suits filed by the plaintiff had been dismissed and the contempt application filed by him had also been rejected by the learned Trial Court through the same judgment. The said three appeals were taken up together for consideration and were disposed of by a common judgment. By virtue of the said judgment, the appeal pertaining to the contempt petition was dismissed, whereas the appeals challenging the judgments and decrees passed in the civil suits were allowed. Consequently, the civil suits were decreed, granting a decree of permanent injunction restraining the defendants from interfering with the possession of the plaintiff over the suit property, along



with a declaration that the decree dated 15.10.1985 was collusive, illegal, null and void, and not binding upon the rights of the plaintiff.

5.2. Aggrieved by the aforesaid judgment and decree, the subsequent purchasers, being persons adversely affected thereby, have instituted the present two appeals. The appeals were admitted for hearing vide order dated 27.01.1998.

6. Upon issuance of notice, respondent No.1 appeared through counsel and contested the appeals. The records of both the Courts below were requisitioned. Since both the appeals arise out of the same set of facts and challenge a common judgment, they are being taken up together for disposal.

7. As regards the scope of second appeal, it is now a settled proposition of law that in Punjab and Haryana, second appeals preferred are to be treated as appeals under Section 41 of the Punjab Courts Act, 1918 and not under Section 100 CPC. Reference in this regard can be made to the judgment of the Supreme Court in the case of ***Pankajakshi (Dead) through LRs and others V/s Chandrika and others, (2016)6 SCC 157***, followed by the judgments in the case of ***Kirodi (since deceased) through his LR V/s Ram Parkash and others, (2019) 11 SCC 317 and Satender and others V/s Saroj and others, 2022(12) Scale 92***. Relying upon the law laid down in the aforesaid judgments, no question of law is required to be framed.

8. I have heard learned counsel for the parties at considerable length and have accorded anxious and thoughtful consideration to their respective submissions, while carefully examining the pleadings of the



parties, the evidence available on record, and the findings returned by the Courts below.

9. Learned counsel appearing on behalf of the appellants contended that the learned First Appellate Court has failed to properly appreciate the pleadings and evidence on record. It was submitted that the respondent–plaintiff had never challenged the decree on the ground that it was invalid for want of registration. The case set up by the respondent–plaintiff was that the impugned judgment and decree were without consideration, devoid of legal necessity, collusive in nature, and consequently not binding upon the reversionary rights claimed by the plaintiff. It was argued that the learned First Appellate Court, instead of confining itself to the pleadings and issues arising therefrom, has effectively made out an entirely new case for the respondent–plaintiff by holding the decree to be invalid for want of registration, and on that basis set aside the judgment and decree passed by a competent Court, which, according to the appellants, was wholly unwarranted and without legal foundation.

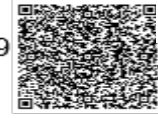
10. Per contra, learned counsel for the respondent contended that the learned First Appellate Court has rightly held that the judgment and decree passed in favour of defendant No.1 and against defendant No.2 were invalid for want of registration. In support of this submission, reliance was placed upon the judgment of the Hon’ble Supreme Court in ***Bhoop Singh vs. Ram Singh Major, (1995) 5 SCC 709***, and it was argued that the learned First Appellate Court has correctly applied the ratio of the said judgment. It was thus contended that the findings recorded by the First



Appellate Court are legally sound and do not warrant any interference by this Court.

11. A perusal of the impugned judgment reveals that the learned First Appellate Court has primarily allowed the appeals against the judgments and decrees passed in the civil suits on the ground that the judgment and decree dated 15.10.1985, suffered by defendant No.2 in favour of defendant No.1, were invalid for want of registration. The learned First Appellate Court held that the learned Trial Court had erred in placing reliance upon the said judgment and decree, since by virtue thereof a right, title and interest in immovable property valued at more than ₹100/- was allegedly created for the first time in favour of defendant No.1. Relying upon the aforesaid decision of the Hon'ble Supreme Court in **Bhoop Singh's** case (supra), the learned First Appellate Court declared the said judgment and decree to be illegal, null and void and unsustainable in law. It further recorded a finding that the plaintiff was in possession of the suit land and, therefore, entitled to protection of such possession, while also holding that the impugned judgment and decree did not confer any right, title or interest in the suit property in favour of defendant No.1.

12. It is pertinent to note that defendant No.1 had instituted a suit against defendant No.2 claiming that he had been adopted as a son by defendant No.2 and that the suit property had been given to him pursuant to a family settlement. Both the Courts below have concurrently recorded a categorical finding that the alleged adoption of defendant No.1 by defendant No.2 has not been proved. The said finding has not been assailed in the present appeal and has, therefore, attained finality. The relationship



between defendant No.1 and defendant No.2 thus remains that of nephew and uncle.

13. Even so, they are members of the same family, and it is well settled that a family settlement may be arrived at even between persons standing in remote familial relationships. The Hon'ble Supreme Court, in ***Kale and Others vs. Deputy Director of Consolidation and Others, (1976) 3 SCC 119***, has recognized the validity and binding nature of family settlements entered into for the purpose of resolving family disputes and preserving harmony. In paragraph No.9 of the said judgment, it has been held as under:-

9. "The object of the arrangement is to protect the family from long-drawn litigation or perpetual strifes which mar the unity and solidarity of the family and create hatred and bad blood between the various members of the family. Today when we are striving to build up an egalitarian society and are trying for a complete reconstruction of the society, to maintain and uphold the unity and homogeneity of the family which ultimately results in the unification of the society and, therefore, of the entire country, is the prime need of the hour. A family arrangement by which the property is equitably divided between the various contenders so as to achieve an equal distribution of wealth instead of concentrating the same in the hands of a few is undoubtedly a milestone in the administration of social justice. That is why the term "family" has to be understood in a wider sense so as to include within its fold not only close relations or legal heirs but even those persons who may have some sort of antecedent title, a semblance of a claim or even if they have a spes successionis so that future disputes are sealed for ever and the family instead of fighting claims inter se



and wasting time, money and energy on such fruitless or futile litigation is able to devote its attention to more constructive work in the larger interest of the country.”

14. The aforesaid observations of the Hon’ble Supreme Court clearly indicate that the expression family is to be construed in a broad and liberal sense and includes even those persons who may merely have a semblance of a claim or a possible expectancy of succession in the property in question. In the present case, it is an admitted position that defendant No.2 was unmarried and issueless, and both the plaintiff and defendant No.1 were the sons of his brothers. Consequently, in the event of the death of defendant No.2, they were the natural heirs who would ordinarily succeed to his estate under the rules of natural succession.

14.1. In such circumstances, defendant No.1 undoubtedly possessed at least a semblance of claim over the property of defendant No.2 and could legitimately be regarded as having a spes successionis in respect thereof. He, therefore, clearly fell within the category of relations among whom a family settlement could validly take place, as recognized in the law laid down by the Hon’ble Apex Court in **Kale and Others vs. Deputy Director of Consolidation and Others** case (supra). In the said judgment, the Hon’ble Apex Court has further elucidated the governing principles of family settlements in paragraphs No.10(4) and 10(5), which read as under:-

- 4) “It is well settled that registration would be necessary only if the terms of the family arrangement are reduced into writing. Here also, a distinction should be made between a document containing the terms and recitals of a family arrangement made under the document and a mere memorandum prepared after the family arrangement had already been made either for the purpose of the

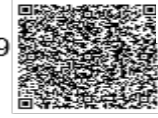


record or for information of the court for making necessary mutation. In such a case the memorandum itself does not create or extinguish any rights in immovable properties and therefore does not fall within the mischief of section 17(2) of the Registration Act and is, therefore, not compulsorily registrable;

- (5) The members who may be parties to the family arrangement must have some antecedent title, claim or interest even a possible claim in the property which is acknowledged by the parties to the settlement. Even if one of the parties to the settlement has no title but under the arrangement the other party relinquishes all its claims or titles in favour of such a person and acknowledges him to be the sole owner, then the antecedent title must be assumed and the family arrangement will be upheld and the courts will find no difficulty in giving assent to the same.”

15. The aforesaid exposition of law, which has also been relied upon in *Riupudaman Singh vs. Tikka Maheshwar Chand, 2021 INSC 320*, clearly establishes that a family arrangement entered into between parties having even a **possible or semblance of claim** in the property, when acknowledged and recognized in a decree subsequently passed by a Court, does not fall within the mischief of **Section 17(2) of the Registration Act** and, therefore, does not require compulsory registration.

16. As regards the reliance placed by the learned First Appellate Court on the judgment of the Hon’ble Supreme Court in **Bhoop Singh’s case (supra)**, it would be appropriate to notice that the decree under consideration in that case was to the following effect that *“It is ordered that a declaratory decree in respect of the property in dispute, fully detailed in the heading of the plaint, to the effect that the plaintiff shall be the owner in possession from today in lieu of the defendant after his death*



*and that the plaintiff deserves to have his name incorporated as such in the revenue record, is granted in favour of the plaintiff against the defendant, in view of the written statement filed by the defendant admitting the claim of the plaintiff to be correct.”*

16.1. A plain reading of the aforesaid decree demonstrates that in that case the Hon'ble Supreme Court was dealing with a situation where the right, title or interest in the suit property was created for the first time on the date of passing of the decree. It was in that context that it was held that such a decree required registration under Section 17 of the Registration Act.

17. The factual position in the present case, however, stands on an entirely different footing. Here, the judgment and decree dated 15.10.1985 merely recognized a pre-existing right arising out of a family settlement between defendant Nos.1 and 2. The decree, therefore, did not itself create any new right, title or interest in the immovable property but merely acknowledged and affirmed an already existing arrangement between the parties. Consequently, such a decree does not attract the requirement of compulsory registration.

18. The learned First Appellate Court, in the considered view of this Court, has fallen into error in its interpretation and application of the ratio laid down by the Hon'ble Supreme Court in **Bhoop Singh's** case (supra). Since the decree in question merely recognized a pre-existing right in favour of defendant No.1, who is the predecessor-in-interest of the present appellants, the same effectively conveyed and affirmed title in the suit property in favour of defendant No.1.



19. Once it is accepted that defendant No.1 had acquired right, title and interest in the suit property as a co-owner, and had also been placed in possession pursuant to the family settlement in respect of the share of defendant No.2, he must, in law, be deemed to be in possession of every part of the joint holding. In such circumstances, the respondent—plaintiff/Jagdish Chand cannot claim an injunction restraining the defendants from possession of the property.

19.1. Accordingly, both the appeals preferred by the appellants are **allowed**, the “*judgment*” and “*decrees*” passed by the learned First Appellate Court are set aside, and those of the learned Trial Court are restored.

20. Consequent upon the final adjudication of the principal matter, all pending miscellaneous applications, if any, arising out of or connected with the present proceedings, shall stand disposed of by necessary implication. In view of the conclusions recorded here-in-above, no separate or independent orders are required to be passed in respect of such applications, as their adjudication has become wholly infructuous and academic.

22. A photocopy of this judgment shall be placed on the connected file for the purposes of compliance, if any, and for ready reference.

**18.03.2026**  
Gaurav Sorot

**( VIRINDER AGGARWAL )**  
**JUDGE**

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No