



RSA-4305-2019 (O & M)

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

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RSA-4305-2019 (O & M)

Date of decision:04.03.2025

RAM SINGH

...APPELLANT

VS.

PARKASH KAUR AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Sandeep Arora, Advocate
for the appellant.

SUVIR SEHGAL, J.

CM-12067-C-2019

1. Delay of 216 days in the re-filing of the appeal is condoned.

2. Application is disposed off.

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3. Appellant/plaintiff is in second appeal assailing the judgement and decree dated 05.09.2018 passed by the learned District Judge, Jalandhar, whereby judgement and decree dated 29.03.2017 passed by the Trial Court, has been set aside.

4. Plaintiff filed a suit for permanent injunction restraining the defendants from dispossessing or from interfering in peaceful possession of



the residential house. His pleaded case is that Punjab Wakf Board was the owner of the suit land and Joginder Singh, his father was in possession of the property as a *gair marusi*. His father expired on 02.06.2001 and after his death he is residing in the residential house. His brother/defendant No.1, who was disinherited by his father during his life time, moved a false complaint before the Commissioner of Police, Jalandhar, through defendant No.2, who is his mother and the defendants are making attempts to dispossess him from the suit property. Upon being served, defendants contested the suit by filing a written statement and raised various preliminary objections. Plaintiff filed a replication controverting the stand taken by the defendants in their written statement. Trial Court framed issues on the basis of the pleadings of the parties, who led evidence in support of their respective case. After contest, by judgement dated 29.03.2017, Trial Court decreed the suit. On an appeal filed by defendant No.2, the first appellate court reversed the findings recorded by the Trial Court and dismissed the suit, resulting in the institution of the present appeal at the hands of the plaintiff.

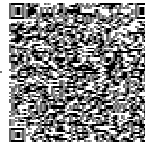
5. Mr. Sandeep Arora, counsel for the appellant urges that the first appellate court has failed to appreciate that after the death of Joginder Singh, who was a *gair marusi* tenant over the property owned by the Punjab Wakf Board, the appellant/plaintiff came in its possession. He asserts that the appellant has been staying in the residential house along with his family for the last many years and although the electricity bill is in the name of his brother, but the charges are being paid by the appellant. It is his contention



that the water and sewerage connection is in the name of the appellant, which establish his possession over the suit property.

6. I have heard counsel for the appellant and considered his submission besides examining the requisitioned record.

7. The undisputed case of the parties is that the suit property, which measures 16 marlas, belongs to the Punjab Wakf Board. Joginder Singh, who is their predecessor-in-interest, was in possession of the property as a *gair marusi*. Plaintiff claims to be in possession of 6 marlas, out of the entire land, where a residential house has been constructed. He has not produced any evidence to show that the property was ever partitioned and he came in exclusive possession of any specific portion of the property. After the death of Joginder Singh, property has to be considered in joint possession of all his heirs, who are co-sharers. It has been settled by a Full Bench of this Court in *Bhartu Vs. Ram Swarup* 1981 PLJ 204 that a co-sharer is in possession of each and every inch of the joint property and he cannot claim to be in exclusive possession of any specific portion. The site plan, Ex.P1, upon which, reliance has been placed by the plaintiff does not depict the correct position as the draftsman-PW3, Daleep Singh, who prepared the site plan has admitted that he had prepared the site plan while sitting in his office at the instance of the plaintiff. In his cross-examination, plaintiff has admitted the possession of the defendants over the suit property and has admitted that his mother/defendant No.2 is residing in the property and is getting pension after her husband's death on the address of the suit property. The judgement passed by the learned District Judge, Jalandhar, is



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based on correct appreciation of the factual position and does not call for any interference. The findings recorded by the first appellate court are affirmed.

8. Appeal being devoid of merit, is dismissed, with no order as to costs.

04.03.2025
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No