

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****126****RSA-749-2024 (O&M)  
Reserved on : 04.03.2025  
Pronounced on : 17.03.2025**

Daya Ram and Others

....Appellants

VERSUS

Moji and Others

...Respondents

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Vaneet Soni, Advocate for  
Mr. Deepak Sabherwal, Advocate for the appellants.

**ALKA SARIN, J. (Oral)**

1. Present appeal has been preferred by defendant Nos.1 to 3, 5 to 8, 11 and 12 (defendant-appellants) challenging the judgment and decree dated 27.03.2019 passed by the Trial Court and the judgment and decree dated 02.12.2023 passed by the First Appellate Court.

2. The brief facts relevant to the present *lis* are that the plaintiff-respondent No.1 herein filed a suit for possession by way of redemption of agricultural land measuring 15 Kanals 14 Marlas as fully described in the plaint on payment of Rs.100/-. It was averred in the plaint that the predecessor-in-interest of the plaintiff-respondent No.1 had mortgaged the suit land with possession about 100 yeas ago for a consideration of Rs.100/-. The interest and mesne profits of the land was to be adjusted against each other and deemed to be equal. The mortgage was a usufructuary mortgage. It was further averred that the consolidation proceedings took place in village Jondhan Khurd in the year 1960-61 and the mortgaged suit land was also partitioned during the consolidation and the suit land was allotted to the

predecessor-in-interest of the plaintiff-respondent No.1 and other co-owners in lieu of old khasra numbers. It was further contended that the defendants were in possession of the suit land as mortgagees and they have been asked to admit the claim of the plaintiff-respondent No.1 regarding the suit land, however, they refused to do so. Hence, the present suit.

3. The defendants appeared and filed their joint written statement raising various preliminary objections regarding maintainability, cause of action and the plaintiff-respondent No.1 not approaching the Court with clean hands. It was contended that there is no connection *inter se* between the persons who allegedly created the mortgage and the plaintiff-respondent No.1. It was further the case set up that the predecessor-in-interest of the defendants had purchased the land for a sale consideration of Rs.95/- against receipt, however, the receipt was lost. It was also denied that the predecessor-in-interest of plaintiff-respondent No.1 were the owners of the suit land. The mortgage money of Rs.100/- was also denied. Replication was not filed.

4. On the basis of pleadings of the parties, the following issues were framed :

1. Whether the plaintiff is entitled to the relief of possession by way of redemption of agricultural land detailed and described in para no.1 of the plaint ? OPP
2. Whether the suit of the plaintiff is not maintainable in the present form ? OPD
3. Whether the plaintiff has no locus standi and no cause of action to file the present suit ? OPD
4. Whether the plaintiff has concealed the material facts from the Court ? OPD

5. Whether the predecessor-in-interest of defendants had purchased the suit property ? OPD

6. Relief.

5. The Trial Court vide judgment and decree dated 27.03.2019 decreed the suit. Aggrieved by the same an appeal was filed by defendant Nos.1 to 9, 11 and 12, which was dismissed vide judgment and decree dated 02.12.2023. Hence, the present appeal by the defendant-appellants.

6. Learned counsel for the defendant-appellants would contend that there are no details of the predecessor-in-interest of the plaintiff-respondent No.1 and that the plaintiff-respondent No.1 had not been able to prove on record that the property was mortgaged by his predecessor-in-interest. No pedigree table had been placed on record connecting the present plaintiff-respondent No.1 to the predecessor-in-interest. It is further the contention that no details of the old khasra numbers had been given in the pleadings and hence the suit ought to have been dismissed.

7. Heard.

8. In the present case both the Courts had concurrently held that the revenue record produced by the plaintiff-respondent No.1 in the form of jamabandis (Ex.P1 to Ex.P-13 and Ex.P15 to Ex.P17) from the years 1960-61 to 2014-15 as well as Fard Badar (Ex.P14) and Khatauni Pamaish and Khatauni Istemal (Ex.P18 and Ex.P19) reveal the name of the ancestors of the defendants as mortgagees and in cultivating possession whereas the predecessors-in-interest of the plaintiff-respondent No.1 have been shown in the column of ownership. After consolidation new khasra numbers were assigned against old khasra numbers, which was also clear from the Khatauni Istemal and the Khatauni Pamaish as well as jamabandis for the years 1960-61, 1961-62, 1966-67 and 1971-72 wherein the predecessor-in-

interest of the defendants have been shown to be mortgagees. In the jamabandi for the year 1976-77 (Ex.P5), the name of the plaintiff-respondent No.1 is reflected in the column of ownership depicting him to be the owner to the extent of 1/4<sup>th</sup> share as mortgagor whereas Mangtu, Prabhu and Shobha Chand have been reflected as mortgagees. The jamabandi for the year 2014-15, which was produced on record as Ex.P17, also reflected the plaintiff-respondent No.1 as having 1/4<sup>th</sup> share as mortgagor and Mangtu etc. were reflected as mortgagees. On the other hand, the defendant-appellants were unable to prove that they had purchased the property and that they were in possession as owners rather than mortgagees. Even before this Court learned counsel for the appellants has not been able to show any evidence to counter the evidence led by the plaintiff-respondent No.1. In the face of the findings recorded by both the fact finding Courts, there is no scope for any interference by this Court. No credible and reliable evidence has been highlighted by the counsel for the defendant-appellants for this Court to take a contrary view from the one taken by both the Courts. In view thereof, no fault can be found with the findings returned by both the Courts concerned. No other point was argued.

9. In view of the above, I do not find any merit in the present appeal. No question of law, much less any substantial question of law, arises in the present case. The appeal, being devoid of any merit, is accordingly dismissed. Pending applications, if any, also stand disposed off.

17.03.2025  
jk

( ALKA SARIN )  
JUDGE

NOTE: Whether speaking/non-speaking: Speaking  
Whether reportable: YES/NO