



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

116

RSA-113-2022

Date of Decision: 22.07.2025

Ravinder Singh and others

...Appellants

Versus

Sohan Singh through LRs

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present:- Mr. Balbir Singh Jaswal, Advocate,
for the appellants.

VIKAS SURI, J. (ORAL)

1. The present Regular Second Appeal has been filed challenging the judgment and decree dated 17.01.2020 passed by learned Additional District Judge, Amritsar, whereby the appeal preferred by the plaintiff-appellants before the first Appellate Court was dismissed.

2 Briefly stated, the plaintiff-appellants filed a suit for declaration to the effect that they are co-sharers in joint possession of the suit land and mutation No.3575 in favour of the defendant, on the basis of order dated 23.09.1967 passed by the Additional Director (Consolidation), Jalandhar Division, is illegal, null and void and is liable to be set aside, and for consequential relief of permanent injunction restraining the defendant from alienating the suit land.

2.1 Upon notice of the suit and completion of pleadings, the following issues were framed:-



1. Whether the plaintiffs are entitled to the relief of declaration, as prayed for?OPP
2. Whether the plaintiffs are entitled to the relief of permanent injunction, as prayed for?OPP
3. Whether the suit property is Samlat Tarf Patti Asang? OPP
4. Whether the order dated 23.9.1967 is illegal and subsequent mutation No.3575 on the basis of the said order is illegal, null and void?OPP.
5. Whether the suit of the plaintiffs is not maintainable? OPD
6. Whether the suit of the plaintiffs is hopelessly time barred?OP
7. Relief.”

2.2 The parties led their respective evidence in support of their case. The learned trial Court decided issue Nos.1 and 2 against the plaintiff-appellants and in favour of the defendant-respondent, whereas issue Nos.3 and 4 were decided in favour of the plaintiff-appellants and against the defendant-respondent. Aggrieved by the judgment and decree dated 16.02.2017, both the plaintiffs and defendant preferred separate appeals before the first Appellate Court. The appeal preferred by the plaintiff-appellants was registered as Civil Appeal No.289 of 2017 and the one preferred by the LRs of defendant-respondent was registered as Civil Appeal No.577 of 2017. Both the appeals were disposed of by a common judgment and decree passed by the first Appellate Court. The appeal preferred by the plaintiff-appellants was dismissed, whereas the appeal preferred by the LRs of defendant-respondent was accepted and the judgment and decree passed



by the trial Court was set aside with the following observations:-

“17. It is also worth mentioning here that when the Ld. Trial Court has itself held that plaintiffs are not entitled to any declaration that is to say any locus standi to file the suit, which findings, as already discussed have not been challenged by the plaintiffs in appeal also, then there was no need to set aside the mutation since there is nothing on record which could show that plaintiffs have any locus standi to challenge the mutation. Even otherwise, the sanctioning of wrong mutation can be challenged as per Punjab Land Revenue Act and it is so held in **2015 (1) RCR (Civil) 668 P&H**. It is also held that if the person aggrieved does not avail remedy civil suit will not be maintainable to challenge the mutation.”

2.3 Aggrieved by the aforesaid, the plaintiff-appellants have preferred the present Regular Second Appeal.

3. Heard learned counsel for the appellants and with his able assistance perused the record.

4. Admittedly, aggrieved by the judgment and decree dated 16.02.2017 passed by the learned trial Court, two appeals were preferred before the first Appellate Court, which were disposed of by a common judgment and decree. In the appeal preferred by the plaintiff-appellants, challenge was made to the findings recorded under issue No.2 only, whereby the relief of injunction was declined to them. The plaintiff-appellants were, thus, not aggrieved by the findings recorded under issue No.1, whereby the relief of declaration sought by them was also declined. A perusal of the ‘Memorandum of Appeal’ filed before the first Appellate Court would show



that the plaintiff-appellants neither assailed the finding under issue No.1 nor pleaded any ground challenging the denial of declaratory relief. In view of the said fact, the first Appellate Court declined the relief to the plaintiff-appellants in toto, by recording the supra observation.

5. Though strenuous effort has been made by learned counsel for the appellants attacking the judgment and decree passed by the first Appellate Court, however, he has failed to point out any material from the record or from the grounds of appeal before the first Appellate Court, to dent the findings recorded in para 17 of the impugned judgment. The Courts below have also returned concurrent findings of fact that the plaintiffs have miserably failed to prove that they are co-sharers in the suit land or that Asangs were their ancestors. A categoric finding has been recorded that no document from the consolidation proceedings has either been placed or proved on record, on the basis of which the plaintiffs have sought the relief of declaration. The genealogical chart has also not been brought on record to show that Asangs were their ancestors. As such, it has been concurrently held that the plaintiffs are not proprietors of *Shamlat Pati Taraf Asang*. Learned counsel for the appellants, on the basis of the record, has very fairly submitted that no challenge to the aforesaid finding was raised before the first Appellate Court. He seeks to urge contrary to the settled legal position that a finding of fact, which was not assailed before the first Appellate Court, can still be raised for the first time in second appeal. I am afraid that such an absurd contention cannot be accepted.



6. In view of the aforesaid discussion, this Court does not find any illegality or irregularity, much less perversity, in the order passed by the first Appellate Court, which would call for any interference by this Court in second appeal.

7. No other argument has been raised.

8. No question of law, much less substantial question of law, arises for determination in the instant appeal. In view of the aforesaid, finding no merit in the instant appeal, the same is dismissed.

9. Pending application(s), if any, also stand disposed of.

July 22, 2025
harish

(VIKAS SURI)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No