

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****220****RSA-3927-2014 (O&M)****Date of decision: 04.08.2025****Balwant Singh and others****...Appellant(s)****Vs.****Jagmal and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Jaivir Yadav, Sr. Advocate with  
Mr. Nitish Sharma, Advocate,  
Mr. Ashutosh Sharma, Advocate and  
Mr. Aman Gautam, Advocate for the appellant.

Mr. Randeep Singh, Advocate and  
Mr. Vikram Singh, Advocate  
For respondents No.1 to 3.

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**NIDHI GUPTA, J.**

Present Second Appeal has been filed by the appellant/plaintiffs against the judgment and decree dated 07.12.2013 passed by the learned Additional District Judge, Narnaul whereby the judgment and decree dated 31.05.2010 passed by the learned Civil Judge, Junior Division Mohindergarh allowing the suit for permanent injunction of the plaintiffs, has been set aside; and the appeal filed by the respondents/defendants was allowed.

2. Brief facts of the case are that during consolidation proceedings suit land measuring 4K 17 M was allotted to the plaintiffs alongwith other co-sharers; and in lieu of the suit land, defendants were allotted land measuring 3 K 19 M of plaintiffs and other co-sharers. It was



pleaded in the plaint that pursuant to the consolidation proceedings, entries have been incorporated in the revenue record and plaintiffs alongwith other co-sharers are shown as owners in possession of suit land. It was alleged that as the defendants were trying to illegally dispossess the plaintiffs, plaintiffs were constrained to file the present suit on 02.11.2009 seeking decree of permanent injunction restraining defendants from interfering in the suit property measuring 4K 17 M.

3. Upon notice, defendants No. 1 to 3 had appeared and filed joint written statement denying that the suit land was allotted to the plaintiffs during consolidation proceedings. It was alleged that claim of the plaintiffs was wrongly entered into revenue record. In actual fact, plaintiffs had nothing to do with the suit property. It was stated that application had been submitted by answering defendants in the revenue Court for correction of khasra girdawari. All averments in the plaint were denied, and dismissal of the suit was prayed for.

4. Joint written statement was filed by defendants no. 4 and 5. It was stated that plaintiffs had concealed material facts, and the plaintiffs and defendants no. 1 and 2 were in collusion. It was averred that during consolidation, land of defendants and plaintiffs are added and subtracted from their share accordingly. But due to mistake, names of plaintiffs in revenue record was entered as gair marusi and same was stray entry and defendants are owner in possession over suit property and plaintiff has nothing to do with the same. All other allegations are specifically denied,



and other pleas was taken in regard to maintainability, limitation estoppels etc. and prayed that suit of the plaintiff be dismissed with cost.

From the pleadings of the parties, following issues were framed vide court order dt. 11.08.2009: -

1. *Whether plaintiff has got suit land by way of exchange during consolidation proceedings? OPP*

2. *Whether plaintiff is entitled for the relief of injunction as prayed for? OPP*

3. *Whether suit of the plaintiff is time barred? OPD*

4. *Whether plaintiff has no locus standi to file the present suit?OPD*

5. *Relief."*

5. Upon appraisal of the pleadings and the evidence led by the parties, the trial court vide judgment and decree dated 31.05.2010 had decreed the suit of the plaintiffs restraining the defendants from interfering in peaceful possession of the plaintiffs except in due course of law. However, the Civil Appeal filed by defendants No. 3, 4 and 5 was allowed with costs by the Id. Additional District Judge, Narnaul vide judgment and decree dated 07.12.2013. Hence, present Second Appeal by the plaintiffs.

6. It is *inter alia* submitted by learned Senior counsel for the plaintiffs that possession of the plaintiffs over the suit property was duly proven in accordance with law. It is contended that once possession of the plaintiffs over the suit property is proven, and is also not denied by the defendants, then injunction could not be denied to the plaintiffs.

7. Ld. Senior counsel points out that the appellant had placed on record voluminous revenue record to prove their possession over the



suit property. However, this evidence has been ignored and/or misconstrued by the learned lower Appellate Authority. Learned Senior counsel further submits that the learned lower appellate court has not at all, considered the reasoning given by learned trial court by making reference to the documentary evidence in recording clear finding that the possession of the appellants is proved; and they being in possession of the land are entitled to the decree of permanent injunction. As such, the approach adopted by the learned lower appellate court is unsustainable.

8. It is further submitted that the learned lower appellate court has committed a patent error in law in not considering that the respondents/defendants have miserably failed to produce any document showing their possession over suit land. The question of title is not necessary for the decree of permanent injunction, even if the plea of defendants is considered, although not admitted, because there is no evidence to prove the same in the instant case. Findings to the contrary are unsustainable.

9. It is submitted that therefore, the judgment and decree of the learned first appellate Court dated 07.12.2013 is based on conjectures and surmises and has resulted into grave miscarriage of justice. It is accordingly prayed that the present Second appeal be allowed; and the impugned judgment and decree dated 07.12.2013 be set aside.

10. Per contra, learned counsel for respondents/defendants opposes submissions made on behalf of the plaintiffs and submits that it has been correctly found by the learned lower appellate Court that the



suit land was allotted to the predecessor-in-interest of the defendants and not to the plaintiffs. It is argued that the names of the plaintiffs are wrongly recorded in the revenue record in the column of cultivation. These facts are borne out from the document Ex.D6. It is accordingly prayed that the present appeal be dismissed being meritless.

11. No other argument is raised on behalf of the parties. I have heard learned counsel and perused the case file in great detail.

12. I find no merit whatsoever in the submissions made on behalf of the respondents/defendants. The reasoning of the learned first appellate Court in dismissing the suit of the plaintiffs is contained in para 13 of the judgment and decree dated 07.12.2013 which reads as under:-

*“13. I have given thoughtful consideration to the rival submissions made by the learned counsel for the parties. This suit has been filed for a decree for permanent injunction. In a suit for permanent injunction it is the duty of the plaintiffs to prove their possession of over the suit property. The plaintiffs have alleged that the suit property was allotted to them during consolidation proceedings in lieu of some other land mentioned in para no. 1 of the plaint. On the other hand the defendants have alleged that the suit property was not allotted to the plaintiffs. The defendants have placed on record the order Ex.D4 passed during consolidation proceedings by the consolidation officer which shows that the suit land was deleted from the area allotted to the plaintiffs and some other land bearing rectangle no. 39 kill no. 6/1, 5/1(5-18) and rectangle no. 39 kill no. 5/1(0-14) was allotted to them. Order Ex.D4 was passed in the year 1965. In the jamabandi Ex.P10 of the suit land for the year 1965-66*



*plaintiffs are not recorded owners of the suit land. In this jamabandi the predecessors of the plaintiffs are recorded in column of cultivation. As per column no. 9 of this jamabandi, the predecessors of the plaintiffs were in possession of the suit land on the basis of exchange. The plaintiffs have failed to produce any evidence for proving that their predecessors ever exchanged any land with the predecessors of the defendants. Since the suit land was not allotted to the plaintiffs during consolidation it is clear that their names are wrongly recorded in the column of cultivation. Presumption of truth attached to entries of jamabandi is rebut-able and the defendants have rebutted the presumption by producing the copy of order Ex.D4 vide which suit land was allotted to the defendants and not to the plaintiffs. Therefore, it is concluded that the plaintiffs have failed to prove their possession over the suit land and they are not entitled to decree for permanent injunction. Hence, finding of trial Court on issues no. 1 and 2 is reversed and these issues are decided against the plaintiffs.”*

13. However, in holding as above, the learned first appellate Court has failed to take into consideration the clear and categoric findings of the learned trial court establishing the possession of the plaintiffs over the suit property by making reference to voluminous revenue record. Specific reference may be made to Ex.P2 Khasra Girdawaris for the years 1970-71 to 1975(Haari), and then from 1980 to 1986, October 1990 to April 1995; 1995 to April 2002 and upto October 2004 in respect of suit land wherein Dhunda, Jhabar predecessors-in-interest of the appellants/plaintiffs and Ramji Lal father of Balwant Singh etc have been



recorded in the column of cultivation. Reference is also made to Ex.P3 Jamabandi for the year 1999-2000 wherein also in column no. 5 names of Dhunda & Jhabar, Ramji lal have been recorded as Gair Maurusi Bawajah Tarmim; Ex.P9 Jamabandi for the year 1964-65 wherein also the names of above said persons, predecessors-in-interest of the plaintiffs/appellants have been recorded in the column of cultivation as Bila Lagan Bawajah Tarmim. Similar position is reflected in Ex.P10 Jamabandi for the year 1965-66; Jamabandi for the year 1999-2000 Ex.P3; Ex.P11 is the latest Jamabandi for the year 2004-05 also reflects cultivating possession of the predecessor-in-interest of the appellants/plaintiffs without rent; whereas defendants are shown to be owners. In column no. 9 the entry recorded is Basharah Malkan Bila Malkan. The non-consideration of the documentary evidence referred to above showing long and continuous cultivating possession of the appellants over the suit land reflects perversity of the impugned judgment resulting in miscarriage of justice.

14. It has been submitted by learned counsel for the defendants that the revenue entries are wrong. However, nothing has been brought on record to show that any efforts were made by the defendants to get the said purportedly incorrect revenue entries corrected. Allotment of suit land to the defendants during consolidation proceedings would not automatically imply or entail that possession is also handed over to them. As demonstrated above, Plaintiffs have produced revenue record from 1965 onwards to show their possession over the suit property. In this admitted position, injunction cannot be denied to the plaintiffs. Needless



to say, respondents would be entitled to seek possession of the suit land in accordance with law.

15. Further, the learned lower appellate court has wrongly placed reliance upon Ex.D4. In fact, this order has been misread, and it has been wrongly observed that by virtue of this document, suit land was deleted from the area allotted to the plaintiffs. It has been wrongly observed that the names of the plaintiffs/appellants have been wrongly recorded in the column of cultivation. The observations are totally wrong as the defendants have never challenged the revenue entries continuing from very long time. The observations regarding rebuttal of the entries by placing reliance on Ex.D4 in the revenue record are also untenable.

16. Even the plea of the defendants that they are in possession of the suit land, is not substantiated by any documentary evidence. It is but trite that if defendants were in possession of the suit property then why no effort was made by them to get the revenue entries corrected which were spread over a long period of time. Consistent entries made in the revenue record in Jamabandis and Khasra Girdawaris over a long period of time, cannot be discarded as mere stray entries; and injunction cannot be denied to a party in possession even against the true owner. For the purpose of grant of injunction, the learned lower appellate Court was only required to investigate into the party having possession of the suit property. Whether or not any land was exchanged between the parties during consolidation proceedings is, in my opinion, extraneous to the issue at hand. Even otherwise presumption of truth is attached to entries



in jamabandi although rebuttable. The respondents have sought to rebut the revenue entries by way of Ex.D4 vide which suit land is shown to be allotted to defendants and not to the plaintiffs and as per which "*suit land was deleted from the area allotted to the plaintiffs and some other land being rectangle No. 39 killa no. 6/1 etc. was allotted to them.*" However, as noticed above, only possession of the parties to be seen.

17. In view of the above discussion, the present 2nd Appeal is **allowed**. The judgment and decree dated 07.12.2013 passed by learned Additional District Judge, Narnaul is set aside; and judgment and decree of the learned Trial Court dated 31.05.2010 is restored in its entirety and the suit of the appellants/plaintiffs is decreed.

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

**04.08.2025**

Divyanshi

**(NIDHI GUPTA)  
JUDGE**

Whether speaking/reasoned: Yes/No  
Whether reportable: Yes/No