

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****117****RSA-1217-2018 (O&M)****Date of decision: 28.08.2025****Amrik Singh****...Appellant(s)****Vs.****Charan Singh and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Narinder Kumar Vadehra, Advocate  
for the appellant.

**\*\*\*****NIDHI GUPTA, J.**

Present Second Appeal has been filed by the plaintiff against the concurrent judgments and decrees of the learned Courts below; whereby the suit filed by the appellant for declaration that plaintiff is owner in possession of residential house and three shops on its front including site underneath it shown by words ABCD and by red colour in the site plan annexed with the plaint and which is bounded below:-

North: House of Sh. Narinder Singh

South: Gurdaspur Mukerian Road

East: House of Narinderjit Singh

West: Plots of Smt. Surinder Pal Multani

located on Gurdaspur Mukerian Road, in the revenue estate of Village Chawa, Tehsil and District Gurdaspur; **OR** in the alternative, Suit for possession of plot shown by words PQRS and by red colour in the site plan forming part of Killa No.16 as per terms of the Sale Deed dated 10.09.1986 and which is bounded as below:-

North: Agricultural land



South: Gurdaspur Mukerian Road  
East: House of Sowaran Singh  
West: Plots of Smt. Joginder Kaur and Paramjit Kaur  
situated in the revenue estate of Village Chawa, Tehsil and District  
Gurdaspur, has been dismissed with costs by both the Court below.

2. Brief facts of the case as pleaded by the plaintiff in the plaint are that he has purchased plot measuring 15M comprising in Killa No. 14/1 Min. East of Rectangle No. 7 vide registered Sale Deed dated 10.09.1986 for a consideration of Rs.10,000/- from Mula Singh. Demarcation of the same was done and possession was handed over to the plaintiff by predecessor in interest of the defendants. Plaintiff did not get mutation sanctioned in his name despite execution of Sale Deed in his favour; and raised construction of his house on the said plot; where plaintiff is living with his family. It is pleaded that some months back, PWD officials had visited the village Chawa for conducting survey and only then, plaintiff found out that his name is not recorded in the revenue records regarding the plot. Plaintiff further discovered that land measuring 1K 4M comprised in killa No.14/1(1-0), 14/1/2(0-1), 14/1/2/1 of Rect. No.7 including plot in dispute has already been sold by vendor in favour of one Sant Singh son of Dula Singh vide registered sale deed dated 05.10.1983. Accordingly, said Sant Singh was recorded in the revenue record as owner of Killa No. 14/1 of Rect. No.7. It is pleaded by the plaintiff that in actual fact, the plot in dispute is not located in killa No. 14/1 rather falls in killa No.14/2 of Rectangle No.7 which is owned by Mula Singh. However, due to mutual mistake, the Sale Deed mentioned the incorrect killa No. as



14/1 instead of 14/2. It was accordingly prayed that as plaintiff is coming in possession of residential house constructed on the plot since date of construction. As such, plaintiff be declared owner in possession of plot in disputed. It was further prayed that as per the terms of sale deed dated 10.09.1986 it was undertaken by the vendor Mula Singh that in case the property gets out of the possession of vendee then vendee would be entitled to similar plot out of the remaining land of Mula Singh. It has been further stated that the actual plot was not delivered to Plaintiff and by mistake another plot marked ABCD was given to Plaintiff and Plaintiff took the possession of the same believing it to be the one which has been purchased by him vide sale deed dated 10.09.1986. As per sale deed 10.09.1986 Plaintiff is entitled to the plot shown by the words PQRS, at present in possession of Defendants, as an alternative relief. Plaintiff approached Defendants and requested them to admit his claim, but Defendants flatly refused. With these pleadings, present suit was filed on 28.01.2012.

3. Upon notice, defendants appeared and resisted the suit raising plea of limitation and further submitting that plaintiff cannot claim alternative plot and plaintiff should have been vigilant while getting demarcation of the suit plot.

4. Plaintiff filed replication re-asserting the averments made in the plaint and denying those made in the written statement.

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



*“i. Whether the Plaintiff is entitled to suit for declaration as prayed for? OPP*

*ii. Whether the Plaintiff is entitled to suit for possession? OPP*

*iii. Whether the suit is time barred? OPD*

*iv. Relief.”*

6. Upon appraisal of the pleadings and the evidence led by the parties, suit of the plaintiff was dismissed with costs by learned Civil Judge (Junior Division), Gurdaspur vide judgment and decree dated 08.02.2016. The appeal filed by the plaintiff was also dismissed by learned Additional District Judge, Gurdaspur vide judgment and decree dated 22.03.2017. Hence, the present second appeal by the plaintiff.

7. The only argument raised by learned counsel for the appellant is that Killa No.14/1 was inadvertently mentioned in the Sale Deed; whereas this plot is located in Killa No.14/2. It is submitted that this mistake was inadvertent mistake. The Plaintiff had made an application before the revenue authority for demarcation of the house and to prepare report with regard to Killa no. but the revenue authorities refused to do the same on surmises and conjectures. The Plaintiff also moved an application for appointment of Local Commissioner, but the said application was dismissed by the Trial Court. The Courts below have miserably failed to consider the fact that in the absence of demarcation report, the correct Khasra Numbers and ownership of the house cannot be determined. It is pertinent to mention here that the name of Sant Singh has been erroneously mentioned in the Jamabandi whereas he is



not in possession of any inch of land and in fact Plaintiff is in possession of the land, which fact is even admitted by the Defendants in their evidence.

8. It is accordingly prayed that the present Appeal be allowed; and the judgments and decrees of the Courts below be set aside.

9. No other argument is raised on behalf of the appellant.

10. I find no merit in the absurd submission/ prayer of the appellant. I have perused the Case file in detail, and I am in agreement with the following findings of the learned trial Court: -

*“The possession of Plaintiff, over the plot in dispute, has been stated by Plaintiff himself, while appearing as PW-1, and has also been stated by PW-2 Puran Singh. The possession of Plaintiff has also been admitted by DW-1 who admitted that the site plan Ex.P-3 and Ex.P-4, placed on file by Plaintiff, is correct and three shops shown in site plan are actually existing at the spot. He also admitted that the house of Plaintiff has been constructed long ago. From this oral and documentary evidence it is clearly established that Plaintiff is in possession of house marked ABCD since long. But the relief claimed by Plaintiff is not only regarding his possession over the suit land but to declare him owner of suit property also. To prove his ownership, Plaintiff has placed on record Ex.P-1 which has also been proved by attesting witness Puran Singh PW-2. Though Ex.P-1 is a registered document and has been proved by PW-2 but it is surprising that Plaintiff got sale deed Ex.P-1 executed on 10.09.1986 but he did not try to get mutation sanctioned in his name. Along with Ex.P-1 Plaintiff has also placed on file Ex.P-5 i.e. sale deed dated 05.10.1983. Combined reading of Ex.P-1 and Ex.P-5 reveals that both the sale deeds are of land comprising in Rectangle No.7 killa No.14/1. Ex.P-1 is regarding*



*land measuring 15 marlas and Ex.P-5 is regarding land measuring 15 marlas and Ex.P-5 is regarding land measuring 1 kanal. But Ex.P-5 is prior in time and vendees of Ex.P-5 i.e. Sant Singh got the mutation sanctioned in his favour on the basis of Ex.P-5. Plaintiff has alleged that the land which was purchased by him from Mula Singh was regarding land comprising in Killa No.14/2 but inadvertently killa No.14/1 has been mentioned in Ex.P-1. Plaintiff has alleged that he received the possession of plot from his vendor Mula Singh after demarcation. No such demarcation report is on file. It is also difficult to believe that Plaintiff did not notice the mistake of wrong killa number being mentioned in his sale deed Ex.P-1 and did not try to get it rectified till date or atleast during the life time of Mula Singh. Perusal of Jamabandi Ex.P-6 and Ex.P-7 reveals that land comprising in Rectangle No.7 Killa No.14/1 was under the ownership and possession of Lachman Dass and other co-sharers. Lachman Dass purchase it from Sant Singh and Sant Singh had purchased it from Mula Singh. It seems improbable that transaction of land is being effected in a village and Plaintiff, while staying in said village, is not aware of any transaction especially of property which is in his possession. Plaintiff is alleging that it was mentioned in Ex.P-1, by vendors that if vendee losses the possession of property then he will be entitled to get land of same area from other property of Mula Singh. Even if for the sake of arguments, this contention of Plaintiff is accepted even then it was upon Plaintiff to prove that property of Mula Singh has been received by Defendants being his legal heirs. Mula Singh has died and Plaintiff is claiming land of same area from the Defendants, being his legal heirs. He is claiming land, falling under the ownership and possession of Defendants, comprising in killa No.16. To prove the ownership and possession of Defendants over killa No.16,*



*Plaintiff has placed on record the copy of Jamabandi for the year 2008-09 Ex.P-12, wherein, Defendants have been mentioned as buyers in column No.12. Perusal of Jamabandi Ex.P-12 further reveals that Defendants have inherited land comprising in killa No.16 being legal heirs of Swaran Singh son of Sh. Mula Singh. Ex.P-12 reveals that Swaran Singh had purchased said land from Lachman Dass and it is not the property which Swaran Singh had inherited as a legal heir of Mula Singh (vendor of Plaintiff). It was the separate/self acquired property of Swaran Singh and Defendants have inherited the same as legal heirs of Swaran Singh and not of Mula Singh. As such, this is not the property which has been inherited by Defendants as ancestral property from Mula Singh. As such, Plaintiff is not entitled to claim any portion in the said land of Defendants falling under killa No.16.”*

11. Learned counsel for the appellant is unable to controvert or dispute the above said facts and findings.

12. In view of the same, no ground is made out to interfere in the concurrent judgments and decrees of the learned Courts below. The present Regular Second Appeal is hereby **dismissed**.

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

**28.08.2025**

Divyanshi

**(NIDHI GUPTA)  
JUDGE**

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