



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

RSA-5674-2018 (O&M)

Date of Decision : 02.05.2025

Inder Singh ... Appellant(s)

Versus

Jagbir & Ors ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Vivek Aggarwal, Advocate for the appellant.

ALKA SARIN, J. (Oral)

1. The present regular second appeal has been preferred by the defendant No.2 (defendant-appellant) challenging the judgment and decree dated 27.11.2014 passed by the Trial Court and the judgment and decree dated 29.05.2018 passed by the First Appellate Court.

2. Brief facts relevant to the present *lis* are that the plaintiff-respondent Nos.1 to 6 herein filed a simpliciter suit for permanent injunction seeking a decree that the defendants (defendant-appellant and respondent Nos.7 to 21 herein) be restrained from interfering and dispossessing the plaintiff-respondent Nos.1 to 6 from the agricultural land as fully described in the plaint. It was the case set up by the plaintiff-respondent Nos.1 to 6 that initially Suraj Mal and Mahender sons of Tara Chand, the predecessor-in-interest of the plaintiff-respondent Nos.1 to 6, were in actual, physical cultivating possession of suit land measuring 8 kanals bearing Killa No.15, Rect. No.60 in the capacity of '*Gair Marusi*' without payment of any

lagaan/rent and they had been recorded in possession of the suit land since the year 1971-72 till their death. It was further stated in the plaint that the plaintiff-respondent Nos.1 to 6 are the first class legal heirs of the aforesaid Suraj Mal and Mahender and after their death, they had been in possession of the suit land. Suraj Mal is stated to have died in the year 1998-99 and Mahender in the year 2001. The plaintiff-respondent Nos.1 to 4 are the sons of Mahender and the plaintiff-respondent No.5 is the grand-son of Suraj Mal whereas the plaintiff-respondent No.6 is the granddaughter-in-law of Suraj Mal. It was further the case set up that the plaintiff-respondent Nos.1 to 6 had filed a civil suit bearing No.439 of 04.11.1974/257 of 20.05.1976 titled as Suraj Mal etc. Vs Ran Singh etc. wherein it was held that Suraj Mal and Mahender Singh were in possession of the suit land and in that suit some of the defendants as well as the predecessor-in-interest of other defendants were parties. The said suit was decided on 01.02.1980.

3. On notice the defendant Nos.1 to 7, 11, 12, 13 to 18, 21 and 22 appeared and filed their joint written statement and contested the suit by raising various preliminary objections that they were the true owners and no injunction can be passed against them. On merits, the defendants stated that they were owners of the suit land and if the plaintiff-respondent Nos.1 to 6 were found in possession of the suit land then their possession was against the fact and law. It was further submitted that the disputed khasra number was allotted to the defendants by the Consolidation Authority in appeal under Section 42 of the Consolidation of Holdings Act, 1962 and although the order of Director Consolidation was challenged by Chandgi Ram, the

great grandfather of the plaintiff-respondent Nos.1 to 6, before the High Court, however, the same was dismissed. It was further stated in the written statement that Suraj Mal and Mahender had filed a civil suit before the Senior Sub Judge, Jind which suit was also dismissed and the appeal preferred was also dismissed.

4. During the trial, defendant Nos.1, 7, 9, 10 and 19 were given up by the plaintiff-respondent Nos.1 to 6 vide a statement dated 14.03.2012 and defendant Nos.8, 13 and 20 were proceeded against *ex parte*.

5. No replication was filed. On the basis of the pleadings, the following issues were framed :

1. Whether the plaintiffs are entitled for permanent injunction qua disputed property on the grounds as alleged ? OPP
2. Whether the suit of plaintiffs is not maintainable in the present form as alleged ? OPD
3. Whether the plaintiffs have no cause of action and locus standi to file the present suit as alleged ? OPD
4. Relief.

6. The Trial Court vide judgment and decree dated 27.11.2014 decreed the suit restraining the defendants (defendant-appellant and respondent Nos.7 to 21 herein) from interfering in the possession of the plaintiff-respondent Nos.1 to 6 except in due course of law. Aggrieved by the same, an appeal was preferred by some of the defendants, including the defendant-appellant, which appeal was also dismissed by the First Appellate

Court vide judgment and decree dated 29.05.2018. Hence, the present regular second appeal only by the defendant No.2 i.e. the defendant-appellant.

7. Learned counsel for defendant-appellant would contend that the defendants are the owners of the suit land and hence no injunction could have been granted against them.

8. I have heard the learned counsel for defendant-appellant.

9. In the present case it has concurrently been found by both the Trial Court and the First Appellate Court that the plaintiff-respondent Nos.1 to 6 are in possession and there was sufficient evidence on the record to show that prior to the plaintiff-respondent Nos.1 to 6, Suraj Mal and Mahender Singh, their predecessors-in-interest, were in continuous long possession. It is not the case of the defendant-appellant that these persons were ever dispossessed. The suit is simpliciter for permanent injunction. The question of title is not involved and hence the argument of the learned counsel that since he is the owner, injunction ought not have been granted, cannot be accepted. There is sufficient and cogent evidence on the record to show that the plaintiff-respondent Nos.1 to 6 are in long continuous possession of the suit property. In view thereof, no fault can be found with the judgments and decrees passed by both the Trial Court and the First Appellate Court decreeing the suit and restraining the defendants (defendant-appellant and respondent Nos.7 to 21 herein) from interfering and dispossessing the plaintiff-respondent Nos.1 to 6 except in due course of law.

10. No other point was argued.

11. No question of law, much less any substantial question of law, arises in the present case which requires determination by this Court. The appeal being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

02.05.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

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