



RSA No. 2928 of 2025

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No. 2928 of 2025(O&M)

Date of decision: 27.08.2025

Kuldeep Singh

...Appellant

Versus

Mahender Kaur & Ors.

...Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Vishal Sharda, Advocate with
Mr. Aryaman Thakur, Advocate
for the appellant.

DEEPAK GUPTA, J.

By way of present regular second appeal, plaintiff has approached this Court against the concurrent findings of the Courts below, inasmuch as suit for declaration with consequential relief of permanent and mandatory injunction regarding the property in dispute filed by him was dismissed by trial Court on 24.10.2024 and the appeal filed by him was dismissed by the First Appellate Court on 15.05.2025, thus affirming the findings of the trial Court.

2.1 Admittedly, one Harbhajan Singh was owner of the suit property measuring 9 kanal 8 marla situated within revenue estate of village Kalanaur Kalan, Tehsil Kalanaur, District Rohtak. Plaintiff claims ownership and possession of the suit property on the basis of registered sale deed No. 1039 dated 18.05.1987 purported to be executed by Harbhajan Singh in his favour. Plaintiff challenged the judgment & decree dated 10.12.1986 passed in civil suit No. 531 of 1986 titled as 'Mohinder Kaur Vs. Harbhajan Singh', whereby Harbhajan Singh suffered the decree regarding 67 kanal 03 marla of land, which included the suit land in favour of defendant No.1 and based upon that decree dated 10.12.1986, mutation No. 6126 dated 24.09.1987 was sanctioned. It is submitted by the plaintiff that Harbhajan Singh did not intend to include the suit land in the judgment & decree dated 10.12.1986 and it was an inadvertent mistake, as he had retained the possession of the suit land, which he later on sold to plaintiff. It

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is also the case of the plaintiff that defendant No.1 is signatory to the sale deed dated 18.05.1987 in favour of the plaintiff. Plaintiff further contends that entries in the revenue record showing defendant No.1 as owner and defendants No.2 to 4 as tenants are wrong, illegal and void, as they are stranger to the suit property and are not in possession thereof. Plaintiff requested defendant Nos.5 and 6 to sanction the mutation in his favour based on the sale-deed dated 18.05.1987, but they failed to do so.

2.2 With the aforesaid averments, plaintiff sought decree of declaration to the effect that judgment & decree dated 10.12.1986 passed in civil suit No. 531 of 1986 and consequent mutation No. 6126 dated 24.09.1987 are null and void and not binding on his rights qua the suit land measuring 9 kanal 8 marla. Plaintiff further sought declaration that he is owner in possession of the suit land by virtue of the sale-deed dated 18.05.1987 and that entries in the revenue record showing defendants No.2 to 4 in cultivating possession are null and void. He also prayed for decree of permanent injunction to restrain defendant No.1 from alienating the suit land in any manner. Plaintiff further sought mandatory injunction by directing defendants No.5 and 6 to enter and sanction mutation in his favour regarding the suit land on the basis of sale deed dated 18.05.1987 and also to remove the names of defendants No.2 to 4 from the column of cultivation.

3.1 Defendants No.1 to 4 did not contest the suit and were proceeded ex-parte.

3.2 As per the stand put forth by defendants No.5 and 6 in their written statement, it is defendant No.1 who is recorded as owner of the suit land since long; whereas, defendants No.2 to 4 are recorded as gair Marusi tenants on batai. With this stand and refuting all the contentions of the plaintiff, these defendants prayed for dismissal of the suit by submitting that names of defendants No.2 to 4 could not be removed from the cultivation column in the revenue record without adopting due procedure provided under law.

4. Necessary issues were framed. Evidence adduced by the parties was taken on record. Trial Court dismissed the suit vide judgment dated 24.10.2024

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after holding that sale-deed in favour of the plaintiff was subsequent to the impugned judgment & decree dated 10.12.1986 and as such, the vendor of the plaintiff i.e. Harbhajan Singh was no longer the owner of the suit property at the time of executing sale-deed in favour of the plaintiff. The First Appellate Court has affirmed the aforesaid findings of the trial Court while dismissing the appeal on 15.05.2025.

5. Assailing the aforesaid concurrent findings, it is contended by learned counsel that mutation No. 6126, on the basis of judgment and decree dated 10.12.1986, was sanctioned on 24.09.1987, but prior to sanctioning of the said mutation, Harbhajan Singh had sold the suit property measuring 9 kanal 8 marla in favour of plaintiff on 18.05.1987 for consideration of ₹23,500/- and this way, plaintiff is the bonafide purchaser of the suit property for value and so, his rights are liable to be protected.

6. To the specific query put by this Court to learned counsel, it is conceded that no such plea of plaintiff being bonafide purchaser was taken before the Courts below. Even the judgments of Courts below would reveal that nowhere it was pleaded nor any evidence was adduced that plaintiff was the bonafide purchaser; or that he was not aware about the judgment & decree dated 10.12.1986 in favour of defendant No.1 having been suffered by Harbhajan Singh.

7. It is further important to notice that mutation on the basis of judgment & decree dated 10.12.1986 was sanctioned on 24.09.1987 and as per revenue record, it is defendant No.1 who is being recorded as owner of the suit property, but plaintiff filed the suit assailing the judgment and decree and consequent mutation on 05.11.2019 i.e. after approximately 33 years of passing of the impugned judgment and decree dated 10.12.1986.

8. The contention of the appellant-plaintiff that Harbhajan Singh did not intend to include the suit property while suffering judgment and decree dated 10.12.1986 is without any force, as said judgment & decree were never assailed during the life time of Harbhajan Singh.

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9. Admittedly, the sale-deed dated 18.05.1987 is later in time comparing to judgment & decree dated 10.12.1986. Thus, at the time when sale-deed dated 18.05.1987 was executed by Harbhajan Singh in favour of plaintiff, the said vendor Harbhajan Singh did not have title in the suit property to convey the same to the plaintiff.

10. In view of the aforesaid discussion, it is found that the Courts below have not committed any error in coming to the conclusion that plaintiff did not have any title in the suit property based on the sale-deed dated 18.05.1987. This Court does not find any ground to interfere in the well reasoned concurrent findings of facts recorded by the Courts below, which are found to be based upon proper appreciation of evidence. As such, present appeal being devoid of any merits, in absence of any illegality or perversity, is hereby dismissed.

(DEEPAK GUPTA)
JUDGE

27.08.2025

Jiten

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