

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****RSA-725-2011 (O&M)****Date of Decision : 16.09.2025**

Hardial Singh Sodhi ... Appellant

Versus

Avtar Singh and Others ... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. R.M. Sharma, Advocate for the appellant.

Mr. P.K. Mutneja, Senior Advocate with
Mr. Viaranjeet Singh Mahal, Advocate
for respondent Nos.1 to 4.

ALKA SARIN, J. (Oral)

1. Present regular second appeal has been filed by the plaintiff-appellant challenging the judgment and decree dated 05.03.2009 passed by the Trial Court and the judgment and decree dated 02.12.2010 passed by the First Appellate Court.

2. The brief facts relevant to the present *lis* are that the plaintiff-appellant filed a suit for declaration that he is owner in continuous possession of the suit property marked by letters ABCD in the site plan attached and as detailed in the headnote of the plaint since the time of his ancestors. It was the pleaded case of the plaintiff-appellant that he is the son of Sodhi Beant Singh, who is the adopted son of Sodhi Ghaniya Singh. It was further the case that the plaintiff-appellant had inherited the plot through his father Beant Singh and that the defendant-respondent Nos.1 to 4 had no right, title or interest in the suit property and neither they nor their ancestors ever held possession or

ownership of the suit property and that the plaintiff-appellant was in continuous possession of the suit property. However, the name of the plaintiff-appellant was not recorded or continued in the record of the Municipal Council. It was further the case set up that Kaka Karam Singh son of Kanshi Ram son of Harnam Singh was the father of defendant-respondent Nos.1 to 4. Kanshi Ram had a brother, namely, Natha Singh. After the death of Kanshi Ram and Natha Singh, Kaka Karam Singh inherited their property. Kaka Karam Singh died in the year 1986 and after his death his entire property was inherited by defendant-respondent Nos.1 to 4 exclusively on the basis of a registered Will dated 28.11.1985 executed by Kaka Karam Singh in their favour and on the basis of said Will, the entire property at Anandpur Sahib was recorded in the names of defendant-respondent Nos.1 to 4 in the record of defendant-respondent No.5. Defendant-respondent Nos.1 to 4 by concealing, distorting, manipulating and misrepresenting the facts about the ownership and possession of the suit property with the help of officials of defendant-respondent No.5 had got an illegal entry made in the year 1989 by incorporating the words "Warsan Kaka Karam Singh" in the column of ownership. This was done to the ignorance of the plaintiff-appellant and upon gaining knowledge of the said fact the plaintiff-appellant moved an application on 11.10.1999 for recording his ownership and to remove the wrong entry. Defendant-respondent No.5 got a public notice published in the Daily Akali Patrika on 04.03.2000 and gave 15 days' time to the parties concerned to give proof of their ownership. However, the defendant-respondent Nos.1 to 4 did not appear despite registered notice being sent to them. Defendant-respondent No.5 assured the plaintiff-appellant that a decision would be taken in the meeting of the Municipal Council on 21.08.2000. It was further the case that the members of the Municipal Council

were satisfied however, they advised the plaintiff-appellant to get the matter settled before the Civil Court. On 06.10.2000 an application was filed before the Director, Local Bodies, Punjab who further ordered the E.O. to report the facts within a week and to carry out necessary corrections in the records and to fix the responsibility against the erring official. On the receipt of the order, defendant-respondent No.5 vide resolution No.138 dated 20.11.2000 formed a sub-committee of the members of the Municipal Council and resolved that the property was owned by the plaintiff-appellant. A letter in this regard was addressed to the Director, Local Bodies, Punjab. The Director, Local Bodies, Punjab vide order dated 04.12.2000 ordered to incorporate the ownership of the plaintiff-appellant in the Municipal Council records. Subsequently, the site plan was also approved by the defendant-respondent No.5. It was further the case that the defendant-respondent Nos.1 to 4 were trying to get the entry removed qua the ownership of the plaintiff-appellant and to get the approval of the site plan suspended.

3. On notice the defendant-respondent Nos.1 to 4 appeared and filed their written statement averring therein that the plaintiff-appellant had no concern with the suit property. It was denied that Sodhi Beant Singh father of the plaintiff-appellant was the adopted son of Sodhi Ghaniya Singh. It was further averred that the property was owned and possessed by the defendant-respondent Nos.1 to 4 through their father Kaka Karam Singh who had acquired the suit property from his father Kanshi Ram and that Kanshi Ram had purchased the plot for a valuable consideration from the previous owner in possession vide sale deed dated 27.08.1993.

4. From the pleadings of the parties, the following issues were framed :

1. Whether the plaintiff are entitled to the relief of

declaration as prayed for ? OPP

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

3. Whether the plaintiff has got no locus standi to file the present suit ? OPD

4. Whether the suit is not maintainable in its present form ? OPD

5. Whether the suit is barred by law of limitation ? OPD

6. Whether the plaintiff is estopped by his act and conduct, long silence and acquiescence from filing the present suit ? OPD

7. Relief.

5. The Trial Court dismissed the suit vide judgment and decree dated 05.03.2009. Aggrieved by the same an appeal was preferred by the plaintiff-appellant which appeal was also dismissed vide judgment and decree dated 02.12.2010 passed by the First Appellate Court. Hence, the present regular second appeal.

6. Learned counsel for the appellant would contend that both the Courts have erred in dismissing his suit. It is urged that the suit property falls in *Lal Lakir* and therefore there is no proof of ownership. It is further the contention that the possession of the plaintiff-appellant has been admitted by the defendant-respondent Nos.1 to 4. It is further the argument of learned counsel for the plaintiff-appellant that dimensions and description of the plot stated in the sale deed relied upon by the defendant-respondent Nos.1 to 4 is not matching with the site in question. Further reliance has been placed upon PW1/A, PW1/B, PW1/C and PW1/F to contend that in various sale deeds the

grandfather of the plaintiff-appellant has been shown to being in possession of the plot. In Ex.PW1/C i.e. sale deed dated 14.12.1946 executed by Natha Singh the plot of the grandfather of the plaintiff-appellant is shown to be situated on the eastern side; in Ex.PW1/E i.e. site plan dated 12.12.1946 the plot of Sodhi Ghaniya Singh is shown on the eastern side; in Ex.PW1/A i.e. sale deed dated 17.11.1980 the plot has been shown on the eastern side; and in Ex.PW1/B and Ex.PW1/F i.e. site plans dated 17.11.1980 the plot of Sodhi Ghaniya Singh is shown on the eastern side. It is further the contention that PW2 Sham Lal, who had purchased the adjoining plot vide sale deed dated 17.11.1980, stated that on the eastern side of his plot there was a vacant plot of Sodhi Ghaniya Singh now owned by the plaintiff-appellant. Further, learned counsel for the plaintiff-appellant has contended that the predecessor-in-interest of the defendant-respondent Nos.1 to 4 is stated to have executed a registered Will dated 28.11.1985 in favour of the defendant-respondent Nos.1 to 4 vide which all the properties situated in Anandpur Sahib have been detailed, however, present plot has not been mentioned in the said Will and that the said fact is admitted by DW1 Avtar Singh in his cross-examination.

7. *Per contra* learned senior counsel appearing on behalf of the defendant-respondent Nos.1 to 4 would contend that there is no proof of ownership which has been produced by the plaintiff-appellant and therefore both the Courts have returned concurrent findings of the fact that there is no cogent evidence on the record to grant a declaration in favour of the plaintiff-appellant that he is owner in possession of the suit property.

8. Heard.

9. The plaintiff-appellant approached the Court claiming himself to being the owner in possession of the suit property however there was not a single document which was produced on the record by the plaintiff-appellant

to show that he is the owner in possession. The documents relied upon by learned counsel for the plaintiff-appellant, namely, PW1/C sale deed dated 14.12.1946, PW1/E site plan dated 12.12.1946, Ex.PW1/A sale deed dated 17.11.1980, PW1/B and PW1/F site plans dated 17.11.1980, do not in any way show the ownership of the plaintiff-appellant. Merely because in a third person's sale deed it has been stated in the description that in the eastern side there was a plot of Sodhi Ghaniya Singh it cannot be taken to be a proof of ownership of the plaintiff-appellant. Ex.P3, which is a copy of the assessment register of the Municipal Council, showed the plot in question to be owned and possessed by the legal representatives of Kaka Karam Singh in the year 1989-90. This fact was admitted by the plaintiff-appellant, however, there is no reason forthcoming as to why he chose to keep quiet from 1989 till the filing of the suit. Even today learned counsel for the plaintiff-appellant has not been able to show any document, except for the ones noticed above, which would even remotely show that the suit property was owned and possessed by the plaintiff-appellant. In the absence of any such evidence, no fault can be found with the judgments and decrees passed by both the Courts.

10. In view of the above, I do not find any merit in the present appeal. No question of law, much less any substantial question of law, which requires determination by this Court arises in the present case. The appeal being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

16.09.2025
jk

(ALKA SARIN)
JUDGE

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