



IN THE HIGH Court OF PUNJAB AND HARYANA AT CHANDIGARH

109+213

RSA-1972-2001 (O&M)

Date of decision: 31.07.2025

Pritam Singh and others

...Appellant(s)

Vs.

Hari Ram and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Pritam Singh Saini, Advocate for the appellants.
Mr. Ranjit Saini, Advocate for the respondents.

NIDHI GUPTA, J.

Present second appeal has been filed by the plaintiffs against the judgment and decree dated 17.03.2001 passed by the learned Additional District Judge, Jagadhri.

2. Briefly stated the facts are that the plaintiffs had filed a suit for declaration to the effect that plaintiffs are owners in possession in equal shares of 1/3rd share in the land as described in the head note of the plaint; **and** for permanent injunction restraining the defendants not to receive the enhanced compensation of 1/3rd share of the plaintiffs, beyond their share, with respect to the suit land, now in the reference proceedings pending before the Land Acquisition Collector; **and** also for mandatory injunction directing the defendants to hand over the compensation money to the extent of the plaintiffs 1/3rd share which they received from the Land Acquisition Officer as per evidence; **and** also



for declaring Mutations No. 118, 36, 137 and 138 as null and void and not binding upon the plaintiffs to the extent of share of the plaintiffs.

3. Vide judgment and decree dated 04.03.1999, the learned Civil Judge (Junior Division), Jagadhri had decreed the suit of the plaintiffs in toto and directed as follows: -

“20. For the reasons recorded above, in the light of facts and circumstances on the foregoing issues, I do find merit in the suit of the plaintiffs and the same is hereby decreed with costs. The plaintiffs are owners in possession of equal share of 3rd share in the suit land and they are entitled to receive the compensation of acquired land to the extent of 1/3rd share and they are also entitled to recover the excess amount of compensation received by the defendants no. 1 to 3. The defendants no. 1 to 3 are directed to hand over the compensation money received in excess of their actual share to the plaintiffs within one month. The mutations no. 118,136,137 & 138 are illegal, null and void and the same are hereby set aside. Decree sheet be prepared accordingly and the file be consigned to record.”

4. The defendants had filed a Civil Appeal No. 210 dated 03.02.2000 before the learned Additional District Judge, Jagadhri wherein judgment and decree of the learned trial Court was modified. The learned first appellate Court although upheld the findings of the learned trial Court to the extent that plaintiffs were owners of 1/3rd share of the suit land, however declined grant of permanent and mandatory injunction in favour of the plaintiffs as follows: -



“Resultantly, in view of the above discussion and for the foregoing reasons, the present appeal partly succeeds so far as relief of permanent injunction and mandatory injunction is concerned and such while accepting the appeal partly, as findings of Id. Lower Court regarding permanent injunction and mandatory injunction are not sustainable in the eyes of law and as such the findings to this extent are reversed and set aside and the suit is accordingly dismissed to this extent. However, the findings of Id. Lower Court regarding declaration are affirmed and while affirming the findings on issue no. 1, the present appeal fails to this extent and it is held that before acquisition the plaintiffs-respondents were owners in possession to the extent of 1/3rd share and are also entitled to received compensation in respect of their 1/3rd share in due process of law either by applying to the authority under the Land Acquisition Act or by way of filing a suit for recovery, if limitation permits. Consequently, the findings of Id. Lower Court in the impugned judgment are hereby modified to the extent indicated above and suit of the plaintiffs/respondents is hereby decreed to the extent that the plaintiffs were owners in possession in equal shares of 1/3rd share of the disputed property before acquisition and the suit of the plaintiffs is hereby dismissed so far as remaining relief regarding permanent injunction and mandatory injunction is concerned. The parties are left to bear their accordingly. own costs. Decree sheet be prepared accordingly Lower court record be sent back.

Appeal file be consigned to record room.”

5. Hence, the present Second Appeal by the plaintiffs.



6. It is *inter alia* submitted by learned counsel for the appellants/plaintiffs that the learned lower appellate Court has committed legal error while dismissing the suit with regard to injunction only on the ground that suit for declaration is challenging the revenue entries in the record of rights but suit for injunction is not maintainable. It is held that for relief of compensation, appropriate remedy is that of applying to the concerned court where the amount was to be received by the defendants. It is submitted that the learned Lower Appellate Court has totally ignored the settled principal of law that land acquisition authorities are to make the payment of compensation in accordance with the revenue record. A dispute with regard to the validity of the revenue record that can only be challenged in the Civil Court and if the Civil Court comes to the conclusion that the revenue records have wrongly been maintained, a person cannot be restrained from approaching the revenue authorities. If the revenue entries are contrary to the rights of the parties, then the consequential relief is to be granted especially when the land has been acquired, and compensation has been received by the party inspite of the fact that the suit is pending in the civil court questioning the revenue record.

7. Learned counsel for the appellants further submits that the Lower Appellate Court has ignored the settled principle of law and without setting aside the findings recorded by the Trial Court, dismissed the claim of the appellant with regard to the consequential relief for mandatory injunction directing the respondents to pay the excess amount received by the respondents on the basis of illegal entries in the revenue



record. It is contended that once it is admitted case of the parties that the defendants No. 1 to 3 received the amount of compensation of the land in question in accordance with the shares recorded in the revenue record and once it has been found that the revenue record was not correctly maintained, then the appellants were entitled to receive the amount of compensation to the extent of 1/3rd share.

8. Learned counsel for the appellants further submits that the learned Trial Court has given detailed reasons while holding that the suit was maintainable in the present form and the appellants are entitled to amount of compensation awarded by the Land Acquisition Collector and enhanced by the reference court.

9. *Per contra*, Id. counsel for the respondents-defendants submits that the judgment of the Id. lower appellate Court suffers from no infirmity. It is submitted that as per Section 30 of the Land Acquisition Act, and Section 39 of the Specific Relief Act, injunction prayed for by the appellants could not have been granted.

10. No other argument is raised on behalf of learned counsel for the parties. I have heard learned counsel and perused the case file in great detail. I find merit in the submissions advanced on behalf of the appellants.

11. Given the long history of this litigation, it will be useful to see the sequence of events in chronological order as follows: –

08.07.1965 onwards:



Sadhu's Death and Inheritance Dispute: Sadhu, son of Shibu, died intestate and issueless on 08.07.1965. He was a co-owner of 1/4th share in agricultural land measuring 65 Bighas and 15 Biswas situated in Village Kanhri Khurd, Tehsil Jagadhri, District Yamuna Nagar. This led to a dispute over inheritance among his surviving relatives.

1967-1969:

Civil Suits over Succession: Chetu, the father of the present appellants (plaintiffs), filed Civil Suit No. 307 of 1967 claiming exclusive ownership of Sadhu's estate. During the pendency of the suit, Smt. Atmi, Smt. Sardhi, and Smt. Parsi also filed separate suits claiming shares in the said property. These suits were consolidated.

14.08.1969:

Civil Court Judgment Declaring 1/3rd Ownership: On 14.08.1969, the Sub Judge, 1st Class, Jagadhri decreed that Chetu (plaintiffs' predecessor) was entitled to 1/3rd share in the estate of deceased Sadhu. Smt. Atmi and Smt. Sardhi were each declared entitled to 1/3rd share as well. The claim of Smt. Parsi was rejected. This judgment attained finality as it was not challenged in appeal.

Post-1969:

Wrongful Mutation by Revenue Authorities:

Despite the above final judgment, the revenue authorities wrongly sanctioned mutation entries No. 118 and 136. These mutations excluded the share of Chetu and reflected the entire estate of Sadhu in favour of the respondents (defendants herein), contrary to the decree.

**25.03.1970:**

Gift Deeds by Atmi and Sardhi: On 25.03.1970, Smt. Sardhi executed a gift deed in favour of Ranjit (defendant no. 3), and Smt. Atmi executed another gift deed in favour of Hari Ram and Kanshi Ram (defendants no. 1 and 2). These gifts were entered in the revenue records via mutation Nos. 137 and 138, further distorting the true shareholding.

01.01.1990:

Acquisition of Land by the State: On 01.01.1990, the disputed land was acquired by the Haryana State Electricity Board for the construction of a power station. Compensation proceedings were initiated under the Land Acquisition Act.

28.04.1990:

Disbursement of Compensation: On 28.04.1990, the Land Acquisition Officer disbursed compensation to the respondents/defendants based on the (wrong) revenue entries. The plaintiffs (now appellants) did not receive compensation for their legitimate and undisputed 1/3rd share.

August 1990:

Discovery of Wrongful Payment and Cause of Action: During reference proceedings and inquiry with the Land Acquisition Officer, the plaintiffs discovered that they had been deprived of their rightful compensation, and the defendants had illegally received excess amounts.

31.08.1990:

Filing of Civil Suit: The plaintiffs filed present Civil Suit No. 386 of 1995 on 31.08.1990 (renumbered later), seeking:



- Declaration of their 1/3rd share ownership,
- Declaration that mutations No. 118, 136, 137, and 138 were null and void,
- Permanent injunction restraining defendants from receiving further compensation beyond their share,
- Mandatory injunction directing refund of excess compensation already received by defendants.

04.03.1999:

Trial Court Decrees Suit in Plaintiffs' Favour: The Civil Judge (Jr. Division), Jagadhri decreed the suit in totality on 04.03.1999. The court upheld the plaintiffs' claim of 1/3rd ownership, declared the impugned mutations illegal, restrained the defendants from receiving additional compensation, and directed them to return the excess compensation already received.

May 1999:

Appeal by Defendants: The defendants filed Civil Appeal No. 210 of 1999 before the learned Additional District Judge, Jagadhri, challenging the decree passed by the Trial Court.

17.03.2001:

Appellate Court Judgment Partly Reverses Decree: On 17.03.2001, the learned Additional District Judge partly allowed the appeal. The finding on ownership was affirmed i.e. plaintiffs were declared to be owners in possession of 1/3rd share. However, the appellate court dismissed the claims of permanent and mandatory injunction, holding that the only



remedy available to the plaintiffs was to file a separate recovery suit or proceed under the Land Acquisition Act.

07.05.2001:

Filing of Present Regular Second Appeal: Aggrieved by the partial dismissal of their reliefs by the lower appellate court, the plaintiffs/appellants have filed the instant Regular Second Appeal No. 1972 of 2001 before this Court challenging the findings insofar as they deny full relief.

12. From the above facts, it is clear that by way of the impugned judgment, the Id. 1st appellate court, while affirming the declaration granted in favour of the appellants/plaintiffs regarding their one-third share in the suit land, has erroneously set aside the decree of permanent injunction and mandatory injunction as granted by the Trial Court, despite the clear and concurrent findings on title and ownership in favour of the appellants. It is my considered view that as there was no dispute in respect of title of the appellants, they could not have been denied the relief of compensation.

13. As noted above, the basis of the plaintiffs' claim was the judgment and decree dated 14.08.1969 passed in an earlier civil suit titled **Chetu vs. Atmi & Other**, wherein the predecessor of the plaintiffs, Shri Chetu, was declared to be the rightful owner of one-third share in the estate of one Sadhu, who had died issueless. The said judgment had attained finality. However, when the land was acquired by the Haryana State Electricity Board in 1990, the compensation was awarded to the defendants in excess of their rightful shares, owing to erroneous and manipulated entries in the revenue record, which had been made in



contravention of the 1969 decree. On discovery of this illegality, the plaintiffs were compelled to file the above-stated civil suit to protect their rights and seek restitution.

14. After appreciating the evidence led by both parties, the Id. Trial Court decreed the suit in toto on 04.03.1999. It categorically held that the plaintiffs were owners in possession of one-third share in the suit land and were entitled to the corresponding compensation. The Trial Court found the revenue mutations to be illegal and not binding on the plaintiffs. It further granted the reliefs of permanent injunction and mandatory direction, thereby restraining the defendants from receiving excess compensation and directing them to refund the amount already received beyond their legal share. There is no error whatsoever in the view taken by the Id. Trial Court.

15. The defendants' appeal before the Learned Additional District Judge, Jagadhri came to be partly allowed on 17.03.2001. While the appellate court upheld the findings of the Trial Court on ownership and title, it denied the reliefs of permanent injunction and mandatory injunction, taking a hyper-technical view that such reliefs could not be granted in a civil suit and that the plaintiffs ought to have approached the Land Acquisition Officer or filed a separate suit for recovery.

16. This reasoning is fundamentally flawed and contrary to settled legal principles. Once the ownership and wrongful enrichment were proved, the Trial Court was well within its jurisdiction to grant full and effective relief, including restitution. The denial of consequential reliefs despite a declaration of ownership has resulted in manifest injustice. The learned



appellate court misapplied the law and failed to exercise jurisdiction vested in it by law. The plaintiffs had no alternative remedy and relegating them to another proceeding undermines the very purpose of civil adjudication and contravenes the principles of equity and complete relief. In face of the clear and unambiguous findings regarding ownership and entitlement, the reliefs of permanent and mandatory injunctions could not have been denied to the plaintiffs. The said judgment is therefore, unsustainable in law and deserves to be set aside. The Appellants have successfully proved that the earlier suit of 1967 (*Chetu vs. Atmi & Ors.*) was decreed on 14.08.1969, declaring the plaintiffs' predecessor Chetu as owner of 1/3rd share of the estate of Sadhu (*who died intestate and issueless*). The said judgment was never challenged and attained finality. However, the revenue authorities implemented the judgment erroneously by excluding Chetu's 1/3rd share and mutating the entire share in favour of the respondents (*defendants herein*). This led to wrongful entries in mutations No. 118, 136, 137, and 138. The Trial Court, after appreciating documentary and oral evidence, rightly held that the plaintiffs (now appellants) were owners in possession of 1/3rd share in the land measuring 65 Bighas and 15 Biswas, inherited through their predecessor Chetu, son of Harnam.

17. Before the learned trial court, the appellant had prayed for:

- a) declaration,
- b) permanent injunction restraining the respondents from receiving enhanced compensation beyond their legitimate share, and



- c) a mandatory direction to hand over the excess compensation already received.

The Trial Court decreed all reliefs on the finding that:

- I. The appellants were owners of 1/3rd share;
 - II. The revenue records were incorrect;
 - III. The respondents had received excess compensation not due to them;
 - IV. The principle of unjust enrichment and restitution under Section 144 CPC applies.
18. The Appellate Court, despite affirming ownership of the appellants, wrongly denied consequential reliefs, holding that such claims must be pursued by way of a recovery suit or under the Land Acquisition Act. This narrow and mechanical view violates the doctrine of equity, good conscience and complete relief. The learned 1st Appellate Court lost sight of the fact that the Civil Court has Jurisdiction to Grant Full and Effective Relief. It is settled law that where title and ownership are in question, Civil Courts retain jurisdiction, even in matters of compensation related to acquisition.

In ***Gurtej Singh vs. Jagan Nath & Others, 1995 PLJ 443 (P&H)***, it was held:

“Civil Court has jurisdiction to grant a decree for ownership as well as consequential relief even if the land is acquired and compensation paid wrongly.”

19. Similarly, in ***Ila Singh through LRs vs. Sahni & Ors. (1987 Civil Court Cases 261)***, Delhi High Court has held that:

“A Civil Court can direct return of compensation received illegally by someone not entitled to the land.”



20. Thus, the Ld. 1st Appellate Court erred in holding that only a recovery suit would lie or that reference under Section 30 of the Land Acquisition Act was the exclusive remedy. The Suit is Not Barred by Section 30 of the Land Acquisition Act. Section 30 only applies where a dispute regarding apportionment of compensation is pending before the Land Acquisition Officer. In the present case, the Civil Court had already adjudicated ownership in the 1969 judgment. The present suit challenges wrongful implementation and seeks restoration of rightful compensation. The dispute is not about apportionment before the Collector but about restitution of benefit derived from illegal revenue entries. Thus, the learned first appellate court failed to appreciate that Mandatory Injunction was properly invoked. The Appellants had no alternative remedy but to seek a mandatory direction for return of compensation that was:

- a) wrongfully received,
- b) contrary to ownership as declared by a Civil Court, and
- c) not due to the respondents under the law.

21. Support is drawn from a judgment passed by a Coordinate Bench of this Court in **Bishamber vs. State of Haryana and others (P&H):**

Law Finder Doc Id # 51449; wherein it is held as under:-

“A. Land Acquisition Act, 1894, Sections 30 and 31(2) - Acquisition of land in occupation of occupancy tenants - Occupancy tenants are entitled to compensation - Payment of compensation, however, made to landowners despite protest by occupancy tenants - Apportionment petition by tenants whether maintainable (Yes) - Contention that tenants should file a



civil suit for recovery of amount is not tenable - Landowners directed to deposit money in court in which it would have been deposited under Section 31(2). 1978 R.L.R. 389 relied.

22. Reference is also made to another judgment passed by a Division Bench of this Court in **Karnail Singh vs. Jagir Singh (P&H) (D.B.):**

Law Finder Doc Id # 53444; wherein it is held as under:-

“Land Acquisition Act, Section 31(2), Third proviso and sections 18 and 30 - Dispute among claimants - Jurisdiction of Civil Court - Held that in case of dispute regarding compensation between different claimants, the persons interested can get their dispute resolved either by asking Collector to make a reference under Section 18 or by a separate suit - Award is final so far as Collector and persons interested are concerned but not so among persons interested in the land - Claimant can file a civil suit - Jurisdiction of Civil Court to entertain suit is not barred.”

23. The relevant paras of the above judgment are as under:-

“4. I have given due consideration to the argument but regret my inability to accept it. In order to determine the question, it will be advantageous to refer to section 18, 30 and 31 of the Act. Under section 18, an interested person, who does not accept the award, can get the matter referred to a principal civil Court of original jurisdiction. Under section 30, the Collector is empowered to make a reference suo motu to the Court for decision as to whom the compensation is payable. Under subsection (1) of Section 31, the Collector, on making an award, is required to tender payment of the



compensation awarded by him to the persons entitled thereto in accordance with the award and to pay it to them unless prevented by some of the contingencies mentioned in sub-section (2). The present case involves interpretation of sub-section (2) and its third proviso which are reproduced below :-

"31. Payment of compensation or deposit of same in Court.

-... ..

(2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted.

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto."

*5. Section 31 has been interpreted by the Supreme Court in **Dr. G.H. Grant v. The State of Bihar, AIR 1966 Supreme Court 237**. J.C. Shah, J., speaking for the majority, observed as follows :-*

"In determining the amount of compensation which may be offered, he has, it is true, to apportion the amount of compensation between the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have appeared before him. But the scheme of apportionment by the Collector does not finally determine the rights of the persons interested in the amount of compensation; the award is only conclusive between the Collector and the persons interested and not among the persons interested. The Collector has no power to



finally adjudicate upon the title to compensation; that dispute has to be decided either in a reference under section 18 or under section 30 or in a separate suit. Payment of compensation, therefore, under section 31 to the person declared by the award to be entitled thereto discharges the State of its liability to pay compensation (subject to any modification by the Court), leaving it open to the claimant to compensation to agitate his right in a reference under section 30 or by a separate suit."

*From the above observations, it is clear that the award is final so far as the Collector and the persons interested are concerned, but it is not so among the persons interested in the land. The persons interested can get their dispute resolved either by asking the Collector to make a reference under section 18 of the Act or by a separate suit. The same view had been expressed earlier in **Hemanta Kumar Banerjee v. Satish Chandra Banerjee, AIR 1941 Calcutta 635, Hitkarini Sabha v. Jabalpur Corporation, AIR 1958 Madhya Pradesh 339 and Shri Deo Sansthan Chinchwad and others v. Chintaman Dharnidhar Deo and another, AIR 1962 Bombay 214.** Similar matter came up before me while sitting in Single Bench in **Jog Raj and others v. Benarsi Dass alias Bans Gopal etc., 1978 P.L.R. 258.** I also took the same view and held that a suit is maintainable for recovery of an amount under proviso to section 31(2) of the Act.*

XXXXXXXXXXXX

8. In Chiranji Lal's case (supra), the learned Single Judge observed by way of obiter dicta that when a specific remedy is provided under a particular statute, then the jurisdiction of a Civil Court to entertain the suit is impliedly barred. The view expressed by the Supreme Court in Dr. G.H. Grant's case (supra) and by this Court in



Jog Raj's case (supra), was not brought to the notice of the learned judge. With great respect to the learned judge, I do not agree with the view taken by him and overrule the same."

24. Relief under Section 39 of the Specific Relief Act (mandatory injunction) is permissible where:

- I. A legal duty exists,
- II. There is a breach,
- III. Plaintiff is entitled to relief to prevent unjust gain/loss.

When the ownership is established and the revenue entries are proved to be erroneous, any benefit drawn from such illegal entries must be undone. The Trial Court rightly granted such a direction, and the Ld. Appellate Court failed to appreciate the underlying legal principles.

25. The Suit is also not barred by Res Judicata or Limitation. The issue of ownership was already settled in 1969. The cause of action arose only when compensation was wrongly disbursed in favour of respondents based on fraudulent revenue entries. The suit was filed within limitation after appellants discovered the wrongful receipt of funds. As held in **Ibrahim vs. Sharifan**, right to sue accrues only when wrongful denial or receipt occurs.

26. Thus, the Appellants are Entitled to Full Relief Including Return of Compensation. The Appellants have suffered injustice due to wrongful mutation and illegal enrichment of the respondents. The Ld. Trial Court was



fully justified in granting full and effective relief in one comprehensive suit instead of relegating the parties to multiple proceedings.

27. It is also not denied by Id. counsel for the defendants that enhancement of compensation was confirmed by this Court as far back as in 2000. Admittedly thereafter, compensation amount is lying deposited before the trial Court in accordance with order dated 19.03.2010 of this Court.

28. In view of the above discussion, the present, 2nd Appeal is **allowed**. The judgment and decree dated 17.03.2001 passed by the learned Additional District Judge, Jagadhri is set aside to the extent it denies the reliefs of injunction and mandatory direction; and judgment and decree of the learned Trial Court dated 04.03.1999 is restored in its entirety and the suit of the appellants/plaintiffs is decreed.

29. Pending application(s), if any, stand(s) disposed of.

31.07.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

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