



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

RSA-324-1994

Reserved on 20.08.2025

Date of Pronouncement: 15.09.2025

GURCHARAN SINGH

....Appellant

Versus

JASWINDER SINGH (SINCE DECEASED)

THROUGH LRS AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Dr. Sukant Gupta, Advocate with
Ms. Arti Kataria, Advocate for appellant.

Ms. Kavita Arora, Advocate
for respondent No. 1.

Parmod Goyal, J.

The present Regular Second Appeal has been preferred by unsuccessful plaintiff-appellant whose suit for declaration as well as appeal preferred by him were dismissed vide judgment and decree dated 05.01.1990 and judgment and decree dated 24.07.1993, passed by learned Sub Judge, First Class, Phul and learned Additional District Judge, Bathinda respectively.

2. Plaintiff in his suit for declaration claimed himself to be owner in possession of suit land. It was asserted that Sampuran Singh son of Narain Singh was earlier in possession of suit land as mortgagee. He died 11/12 years back. Plaintiff had got the suit land redeemed in the year 1962-1963 and since then, he has become owner in possession of the suit land. He also claimed that his possession over the suit land since 1962-1963 is open and hostile to the knowledge of Sampuran Singh and defendants, thereby he has become owner of land in the suit. He also claimed that defendants have



forfeited their right to redeem the suit land with lapse of time and he be declared owner in possession of suit land and defendants be restrained from taking benefit of wrong revenue entries, wherein they are referred as mortgagee to dispossess the plaintiff.

3. Defendants No.1, 2, 6 & 7 contested the suit, filed detailed written statement, denied the case of plaintiff and claimed that suit land was mortgaged to Sampuran Singh, which was never redeemed and defendants are in possession of suit land being mortgagee. Dismissal of suit was prayed for.

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

1. Whether the plaintiff is owner in possession of the suit property? OPP.
2. Whether plaintiff is entitled to the injunction prayed for? OPP.
3. Relief.

5. In the present case, ownership of plaintiff only on the basis of entries in jamabandi has not been accepted by the Courts below.

6. Learned counsel for appellant has argued that both the Courts below have erred in not accepting the claim of ownership on the basis of Exhibits P3 to P5 i.e. Jamabandis, wherein plaintiff has been recorded as owner of property.

7. I have heard learned counsel for the parties and perused the records. I find the arguments raised on behalf of appellant to be fallacious. The revenue entries are not conclusive proof of ownership. Ownership has to be proved on the basis of documents of title. Admittedly, plaintiff is not claiming inheritance or succession through original owner, rather plaintiff is claiming that he had purchased suit land 26/27 years back, which comes to



year 1962-1963 after paying the mortgage amount of Rs.4,600/- from one Sher Singh son of Hari Singh. Plaintiff/appellant has further admitted that no sale deed was ever executed by the vendors and therefore, no sale deed was placed on record. In view of the fact that plaintiff himself is asserting that no sale deed was executed by the vendor, his claim of ownership only on the basis of his oral assertions and entries in jamabandi was rightly rejected by both the Courts below. There is no document title in favour of plaintiff/appellant. The sale deed was compulsorily registrable. Neither sale deed was executed nor it was got registered. The oral sale only on the basis of assertions of plaintiff cannot be accepted and has rightly been rejected by the Courts below in absence of any reliable evidence. Admittedly, the suit property was owned by Bhuda mother of Sher Singh. However, no evidence is available to conclude that Bhuda was inherited by Sher Singh alone. In absence of LR's of Bhuda and any evidence that Sher Singh ever became owner, sale by him on basis of oral assertions cannot be accepted. The role of revenue entries is a limited one. They are not documents of title. They at the most are important for fiscal purposes. Revenue records cannot substitute document of title. There is no material to conclude that sale deed was ever executed by Sher Singh being owner of the suit property in favour of plaintiff. No mutation entry in favour of plaintiff on the basis of sale deed is available on record. Therefore, the entries in the jamabandi mentioning plaintiff to be owner cannot be relied upon as they are without any legal title deed and needs to be ignored. Again claim of plaintiff that he had duly redeemed the mortgage from Sampuran Singh in the year 1962, is based upon the oral claim made by plaintiff/appellant. There is no material to conclude that plaintiff had stepped in shoes of the mortgager. He had no privity to contract with Sampuran Singh. It was the mortgager or his



authorized nominee who would have redeemed the mortgage and there is no evidence in this regard. Therefore, learned Courts below have rightly held that plaintiff upon whom onus to prove the ownership lied, had failed to discharge the same. Plaintiff was rightly not held owner of the property.

8. Plaintiff has also sought adverse possession, on the ground that he is in possession for more than 12 years over the suit property and his possession was open and hostile. Claim of plaintiff against mortgagee that his possession is open and hostile would be of no help to the case of plaintiff/appellant. To claim ownership on the basis of adverse possession, it is incumbent upon the person claiming such adverse possession to prove that his possession was open and hostile against the true owner, however, no such claim has been made against true owner, nor true owner has been made party in the present proceedings. Therefore, the claim of plaintiff/appellant against defendants/respondents on the basis of adverse possession cannot stand and has rightly been ignored by learned Courts below.

9. It is admitted fact as pleaded by plaintiff in his suit that suit land was actually mortgaged by Budha mother of Sher Singh in favour of Sampuran Singh. Plaintiff has failed to prove the ownership over the suit on the basis of sale and has also failed to prove that he had got redeemed the land from Sampuran Singh. The plea of plaintiff/appellant that in absence of any evidence of defendants, the case of plaintiff ought to have been accepted by the Courts below is liable to be rejected. Plaintiff has claimed ownership on the basis of sale deed and adverse possession, therefore, it was for plaintiff to discharge the initial onus to show that he became owner of the property by way of some registered sale deed or his possession was open and hostile against the true owners, which in the present case, plaintiff has failed to discharge. The plaintiff is supposed to stand on his own legs and failure



to lead evidence by defendants would only help plaintiff's case, if plaintiff discharges initial onus cast upon him. In the present case, initial onus has not been discharged by plaintiff/appellant and therefore, even in absence of defendants' evidence, plaintiff cannot succeed.

10. Learned counsel for the appellant has placed reliance upon the judgments i.e., ***Paramjit Singh v. Ratti Ram***, 2004 (2) RCR (Civil) 742, ***Sardara Singh and another v. Harbhajan Singh and others***, 1974 PLJ 341, ***Pratap Singh Rathiya and Ors. v. Madhusudan Sundar Sai and Ors.***, AIR Online 2019 Chh 277, ***Avadh Kishore Dass v. Ram Gopal***, 1979 AIR (Supreme Court) 861, ***Pritam Singh v. Dhian Singh***, 2003 (1) CL (H.P.) 36, ***Ammar Ahmed Khan and another v. Union of India and others***, AIR 1955 PUNJAB 37 and ***Mt. Wallan v. Fazla and Ors.***, AIR 1939 PRIVY COUNCIL 114, however, none of the judgments has any applicability in the facts and circumstances of the present case, discussed above.

11. In view of above discussion, it is clearly made out that no question of law arises. The finding of fact recorded by learned Courts below are in accordance with the facts and circumstances and evidence led by parties. Appeal is without any merit, hence dismissed.

15.09.2025
chiranjeev

(PARMOD GOYAL)
JUDGE

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No