



2. In this case, facts in detail are required to be stated in order to comprehend the controversy involved in these two appeals.

3. Sh. Bhagwan Singh was the owner of 92 bighas 15 biswas of land. After his death, his two sons, Sh. Gurbax Singh and Sh. Kehar Singh became the owner who sold the abovesaid land in favour of Sh. Gujjar Singh in August 1936. Sh. Gujjar Singh sold the land comprised in Khasra No. 283, 285, 778 in favour of Sh. Puran @ Sampuran Singh, his nephew in the year 1940. In the year 1946, Sh. Jagjit Singh s/o Sh. Kehar Singh challenged the sale deed executed by his father-Sh. Gurkehar Singh and uncle-Sh. Gurbax Singh. The trial Court dismissed the suit in the year 1947, however, the appeal was allowed on 22.11.1949 declaring that the sale deed shall be treated as mortgage deed and after the death of the vendors, namely, Sh. Kehar Singh and Sh. Gurbax Singh, their heirs can get possession by redemption of mortgage.

4. The operative part of the decree dated 26.11.1949 is extracted as under:-

"It is ordered that a declaration of decree be issued in favour of the plaintiff against the respondent that he (plaintiff) will be entitled to the possession of the land on payment of Rs.125/- after the death of the alienors. In view of the fact that the respondent vendee has suffered considerable loss otherwise, I leave the parties to bear their own courts throughout."

5. After the death of Sh. Gurbax Singh on 29.04.1956, Sh. Paramjit Singh and Sh. Harbans Singh, his two sons filed a Civil Suit for possession on



18.06.1957 seeking redemption against the brothers and nephews of Sh. Gujjar Singh being his legal representatives, which was decreed on 06.02.1958 regarding half share of Sh. Gurbax Singh. Sh. Paramjit Singh and Sh. Harbans Singh, sons of Sh. Gurbax Singh were delivered possession, who in turn sold the property in favour of Sh. Balbir Singh, Sh. Jarnail Singh, Sh. Darbara Singh, Inder Singh, Sh. Didar Singh, Sh. Pritam Singh sons of Sh. Mohan Singh on 28.06.1967. After the death of Sh. Kehar Singh on 03.01.1969, his son Sh. Jagjit Singh also filed a suit for possession by way of redemption of mortgage, which was also decreed vide judgment passed by the Court on 31.03.1970. Sh. Jagjit Singh was also delivered possession of half share of the land in dispute, which was sold by him in favour of Sh. Avtar Singh and Sh. Ajmer Singh sons of Sh. Swaran Singh and Sh. Gurcharan Singh, Sh. Chet Singh, Sh. Hira Singh sons of Sh. Harnek Singh vide registered sale deed executed on 02.06.1970. Sh. Gurcharan Singh, Sh. Chet Singh, Sh. Hira Singh sons of Sh. Harnek Singh sold 57 kanals 10 marlas land on 07.11.2006, whereas, Sh. Avtar Singh and Sh. Ajmer Singh sons of Sh. Swaran Singh sold their share on 08.03.2006 in favour of Smt. Jasvir Kaur wife of Sh. Balbir Singh and Smt. Jasmail Kaur wife of Sh. Mal Singh who in turn sold the land on 19.08.2008 in favour of Sh. Surinder Singh son of Sh. Raunak Singh. Subsequently, On 20.12.2010, Sh. Surinder Singh sold the land to Sh. Kulwinder Singh (appellant in ESA-38-2024) and Smt. Surinder Kaur executed a transfer deed in favour of his son Sh. Daljit Singh (appellant in ESA-37-



2024). The foregoing represents a portion of factual narrative relevant for present proceedings.

6. In the family of Sh. Gujjar Singh, Sh. Bachan Singh, Sh. Baru Singh, Sh. Sher Singh sons of Sh. Uttam Singh son of Sh. Nanda filed a suit for joint possession of ancestral property, which was dismissed on 19.07.1957, which in turn was upheld in first appeal on 12.08.1958. Thereafter, regular second appeal was also dismissed on 24.05.1966, however, Letters Patent Appeal filed by Sh. Bachan Singh etc. was allowed on 12.04.1973. Sh. Hazura Singh, Sh. Zora Singh, Sh. Puran Singh etc. filed the appeal before the Hon'ble Supreme Court, which was disposed of with the following observations:-

"Be that as it may, we are not inclined to go into the merits of controversy. Neither, are we inclined to send the case back for recording fresh evidence on this issue. Parties are close relations. We are of the view that the interest of Justice would be met if the property in dispute as mentioned in the plaint, is divided amongst the appellants-defendants and respondents-plaintiffs in the ratio of 60:40. We direct the trial court to divide the property accordingly and pass a final decree. This may be done within three months from the receipt of this order. We further direct the trial court to have the possession of the property, which comes to the share of the respondents-plaintiffs, delivered to them within one month thereafter.

The judgment of the Letters Patent Bench is modified to the above extent. The appeal is disposed of. No costs."



7. On 01.04.1995, execution petition was filed by Sh. Bachan Singh and the Court prepared the decree-sheet on 14.06.1996. During execution petition, compromise was arrived at between the family members on 19.07.2006 and the parties agreed as under:-

"After assuring the legal heirs of the abovesaid decree holder Bachan Singh, they have compromised with the legal heirs of Kirpal Singh i.e. Harnek Singh s/o Hazura Singh s/o Kirpal Singh, Gurcharan Singh, Chet Singh, Hira Singh S/o Harnek Singh s/o Hazura Singh s/o Kirpal Singh, Ajmer Singh & Avtar Singh s/o Sarwan Singh s/o Hazura Singh s/o Kirpal Singh, rs/o Village Thuhi, Tehsil Nabha. According to this compromise, they have received Rs.7.50 lacs in court from the legal heirs of Kirpal Singh and have surrendered their rights upon the land in dispute under the decree against the legal heirs of Kirpal Singh as full & final settlement. From now onwards, none of the legal heirs of Bachan Singh has any right left against legal heirs of Kirpal Singh s/o Nanda Singh under this decree against the land in dispute. The registered sale deed executed by Jagjit Singh s/o Kehar Singh s/o Bhagwan Singh on 2.6.1970 in the favour of sons of Swaran Singh & Harnek Singh of 70K-2M from the disputed land with Khewat No.86/141, Khasra no. 28//21(8-0), 22(8-0), 44//2min(3-5), 1/1(4-13), 27//16/2(1-10), 85//17(8-0), 24/2(4-0), 27//25/2 (3-16), 45//5/2/3(1-12), Khatuni No. 142 Khasra No. 28 //23 (8-0), Khatuni No. 143 Khasra No.28 //24(8-0), Khatuni No. 144 Khasra



44//2min(3-4), 3(8-0). Paramjit Singh, Harbans Singh ss/o Gurbax Singh s/o Bhagwan Singh Ahluwalia executed a sale deed on 25.6.1967 of 32K from the disputed land with Khasra No. 28//11(8-0), 12(8-0), 13(8-0), 14(8-0) in the favour of Balbir Singh etc. s/o Sohan Singh and in the year 1968, 30K-16M with Khasra No. 28//17(7-8), 18(7-8), 19(8-0), 20(8-0) from the disputed land in the favour of Balwinder Singh etc. s/o Jangir Singh which are correct. The above decree holders had no right to challenge these sale deeds nor they have any such right. The present execution by the legal heirs of Bachan Singh decree holders may kindly be dismissed against legal heirs of Kirpal Singh and above purchasers being satisfied."

8. Execution petition was withdrawn on 01.08.2006 on account of settlement between the parties and file was consigned to the record room.

9. In the year 2008, Sh. Labh Singh son of Sh. Pritam Singh claiming to be legal representative of Smt. Gurdial Kaur filed execution petition, in which, the objections were filed by the appellants, namely, Sh. Daljit Singh and Sh. Kulwinder Singh, which have been dismissed by both the Courts below on the ground that the sale deed in their favour are during the pendency of the suit, hence, governed by rule of *lis pendens*.

II Arguments addressed:-

10. Heard the learned counsel representing the parties at length and with their able assistance perused the paper-book.



11. After hearing arguments on 27.03.2025, a detailed order was recorded and the learned counsel representing the parties were given opportunity to file their synopsis keeping in view the elaborate facts.

12. Learned senior counsel representing the appellant(s) has filed synopsis, however, learned counsel representing the respondents did not choose to file. They were heard again on 12.05.2025.

13. Learned senior counsel representing the appellant(s) contends that in substance, the Hon'ble Supreme Court ultimately passed a judgment in a suit filed by Sh. Bachan Singh, Sh. Baru Singh, Sh. Sher Singh claiming that the suit property is ancestral property. He submits that execution petition has been filed in execution of the aforesaid decree, whereas, Sh. Gujjar Singh son of Sh. Nanda did not remain owner of the property after the judgment and decree passed on 22.11.1949 and thereafter, the possession was also delivered in execution of subsequent suits filed by children of Sh. Gurbax Singh and Sh. Kehar Singh who redeemed the mortgage. It is submitted that the decree drawn by the Executing Court on 14.06.1996, pursuant to the judgment passed by the Hon'ble Supreme Court will not entitle them to take possession from the appellants because their predecessor-in-interest had purchased the property from children of Sh. Gurbax Singh and Sh. Kehar Singh. Moreover, the property purchased by Sh. Gurcharan Singh, Sh. Chet Singh, Sh. Hira Singh sons of Sh. Harnek Singh and Sh. Ajmer and Sh. Avtar sons of Sh. Swaran was self acquired property because the sale deed was executed in their favour by Sh. Jagjit Singh.



14. *Per contra*, learned counsel representing the respondents has relied upon the judgments passed in Civil Suit No. 35 dated 26.02.2014, decided on 21.10.2017 in 'Balbir Singh son of Sh. Mohan Singh and his brothers vs. Bachan Singh and others' and Civil Suit No. 169T/20.07.2011 decided on 10.03.2014 in Balwinder Singh, Sh. Mewa Singh, Sh. Nahar Singh sons of Sh. Jangir Singh vs. Bachan Singh and others.

III Discussion:-

15. This Court has considered the submissions made by the learned counsel representing the parties.

16. The facts as noticed above are not disputed by learned counsel representing the respondent(s).

17. The predecessor of the appellants have purchased the property from Sh. Jagjit Singh. It is also evident that Sh. Gujjar Singh son of Sh. Nanda, though, originally purchased the property in the year 1946, however, in view of the decree dated 22.11.1949 became the mortgagee, which was subsequently redeemed by the children of Sh. Gurbax Singh and Sh. Kehar Singh by filing two separate suits.

18. Thus, Sh. Gujjar Singh was no longer owner of the property, hence, the suit land will not be part of the decree passed in favour of Sh. Bachan Singh, Sh. Baru Singh, Sh. Sher Singh pursuant to the judgment passed by the Hon'ble Supreme Court on 25.01.1995 dividing the property in the ratio of 60:40. Both the Courts have overlooked these facts and dismissed the objection petition only on the ground that sale in favour of the appellants is



governed by rule of *lis pendens*. The appellants are not representative of the Judgment Debtors. Their objections were required to be decided like a suit. Though, the facts were complex, however, the Court is expected to examine the same in detail in order to arrive at correct conclusion.

19. Learned counsel representing the respondent(s) relies upon the two judgments passed in Civil Suit No. 35 and 169T. Both the suits were filed for grant of decree of declaration that the plaintiffs are the owner in possession of land specified therein and the decree for partition dated 14.06.1996 is illegal, null and void.

20. Learned counsel representing the respondents has failed to explain how these two suits, in which the appellants are not a party to the suit, affect their rights.

IV Decision:-

21. Keeping in view the aforesaid discussions, both the appeals are allowed and execution petition filed by Sh. Labh Singh shall stand dismissed.

22. All the pending miscellaneous applications, if any, are also disposed of.

**(ANIL KSHETARPAL)
JUDGE**

27.05.2025
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No