



RSA-2644-2000 (O&M)

-1-

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

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**RSA-2644-2000 (O&M)
Reserved on:-04.09.2025
Date of Decision : 09.09.2025**

Harjit Ram and Others

...Appellants

VERSUS

Balkar Singh and Another

...Respondents

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. G.S.Jaswal, Advocate for the appellants.

Mr. Amit Jain, Sr. Advocate with
Mr. Aryaman Thakur, Advocate for the respondent.

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MANDEEP PANNU, J.

1. The present Regular Second Appeal has been filed by the appellants/plaintiffs Harjit Ram and others, sons of Billu Ram, against the respondents/defendants Balkar Singh and Majhel Singh, challenging the judgment and decree dated 22.04.2000 passed by the learned First Appellate Court, whereby the appeal was allowed and the judgment and decree dated 01.03.1997 passed by the learned trial Court was set aside.

Brief Facts

2. The brief facts of the case are that the plaintiff Billu Ram filed a suit for grant of permanent injunction restraining the defendants from interfering forcibly in his peaceful possession as tenant over the land measuring 38 kanals 17 marlas, as detailed in the headnote of the plaint and as per Jamabandi for the year 1984-85, except in due course of law. It was pleaded that the plaintiff had been a



RSA-2644-2000 (O&M)

-2-

tenant on the suit land prior to the year 1965 under the landowners, namely, Shanti Devi, Savitri Devi, Parsanni Devi, Parkash Watti and Swaraj Devi, daughters of Lahori Mal. The said landowners had once attempted to dispossess him, due to which he had filed a suit that was decreed ex parte in his favour. The grievance raised in the present suit was that the defendants, claiming to have purchased the suit land from the said landowners, had started threatening him with forcible dispossession. The plaintiff asserted that even if the defendants had purchased the property, they had no right to eject him except in accordance with law. He maintained that he had been in continuous, peaceful, and legal possession of the suit land as tenant since 1965, regularly paying his share of produce, and accordingly prayed for a decree of permanent injunction.

3. The defendants contested the suit by filing their written statement. They raised preliminary objections that the plaintiff was not in possession of the suit land and that they had been in settled possession since 1987. It was further pleaded that they had been paying Chakota since 1987-88, 1988-89, 1989-90 and the rate of Chakota was raised from the year 1990-91 and that the plaintiff had executed a chakotanama in their favour for the years 1989-90 and 1990-91, also issued receipts for tubewell water charges. On merits, they alleged that the plaintiff had remained in possession only up to Rabi 1987, and thereafter inducted the defendants on payment of chakota. They also pleaded that they had purchased a portion of the suit land by two registered sale deeds, but their possession was not claimed on the basis of ownership, rather, they were in possession as lessees. It was contended that since they were already in possession, there was no question of any threat of forcible dispossession, and that the plaintiff had filed the suit merely to avoid eviction on the ground of subletting.



4. Replication was filed by the plaintiff denying the allegations of the defendants, while reiterating his own stand.

5. On the pleadings of the parties, the learned trial Court framed the following issues:

(1) whether the plaintiff is in possession over the land in dispute as a tenant? OPP

(2) relief.

6. Both sides led evidence.

Findings of the trial Court

7. The learned trial Court, after considering the record, observed that though an issue regarding possession had been framed and it appeared from the pleadings that possession was claimed by the defendants, yet the plaintiff had asserted that he was dispossessed during the pendency of the suit, whereas the defendants relied on a patanama dated 10.06.1989 to support their possession. The Court held that the execution of the patanama remained doubtful. With respect to the correction of Khasra Girdawari, the court noticed that the order of the Naib Tehsildar dated 04.05.1990 was passed when the suit had already been instituted on 03.05.1990, which showed that the defendants had attempted to change the entries during the pendency of the suit. From the pleadings and conduct of the defendants, who even claimed ignorance of the plaintiff's capacity despite alleging subletting, the trial court concluded that the plaintiff had been a tenant over the land and had been in possession on the date of filing of the suit. It further held that he was dispossessed during the pendency of the suit, and relying on the principle that the court could mould the relief to meet the ends of justice, it decreed the suit,



RSA-2644-2000 (O&M)

-4-

directing restoration of possession to the plaintiff and restraining the defendants from interfering in his possession.

8. It is relevant to mention here that during pendency of the suit, Billu Ram had died and was represented by his legal representatives, namely, his sons Harjit Ram, Mast Ram, Kishan and Mohinder

Findings of the Lower Appellate Court

9. Aggrieved by the judgment and decree of the learned trial Court, the defendants preferred an appeal. The learned Lower Appellate Court allowed the appeal, holding that the suit being one for permanent injunction, the only question was whether the plaintiff was in possession on the date of institution of the suit. It found that proceedings for correction of Khasra Girdawari had been initiated in March 1990, much prior to the filing of the suit, and on spot inspection it was found that the possession was that of the defendants. The correction was made on 04.05.1990, a day after institution of the suit, but the Appellate Court held that it was merely a consequential step following spot inspection and enquiry already made earlier. It also noticed that the plaintiff did not participate in the said proceedings despite notice. It was observed that the plaintiff had not produced any independent witness from the village to support his possession after 1987, whereas documentary evidence patanama and Khasra Girdawari entries supported the possession of the defendants. The Appellate Court held that the plaintiff had failed to prove his possession as on the date of filing of the suit, and further that if he had been dispossessed during pendency, he ought to have taken recourse to contempt proceedings, but he did not do so. It, therefore, reversed the judgment of the trial court and dismissed the suit.



RSA-2644-2000 (O&M)

-5-

10. Feeling aggrieved, the present Regular Second Appeal has been filed by the appellants/legal representatives of plaintiff Billu Ram. Notice of the RSA was given to the respondents, who have appeared and contested the same.

Submission on behalf of the appellants/LRs of Plaintiff

11. Learned counsel for the appellants has argued that the learned Lower Appellate Court erred in relying upon the patanama, which is inadmissible in evidence having been executed on plain paper. It was submitted that it stood proved on record that the plaintiff was inducted as tenant on payment of batai and his only source of livelihood was agricultural income, and there was no evidence that he or his sons had surrendered possession in 1987. It was urged that mere correction of entries in the Khasra Girdawari in favour of the defendants during the pendency of the suit would not change the legal status of the plaintiff as tenant, and he could not be dispossessed on the basis of wrong entries made by revenue officials. The judgment of the learned Lower Appellate Court was thus assailed as illegal and unsustainable.

Submission on behalf of the respondents/defendants

12. On the other hand, learned counsel for the respondents argued that in a suit for permanent injunction, the question of possession alone is material. It was contended that the plaintiff himself admitted that he had been dispossessed. He further submitted that the defendants had been in possession since 1987 on the basis of chakota as well as pattanama executed in 1989. The proceedings for correction of Khasra Girdawari had been initiated prior to the filing of the suit and were decided on spot inspection before 03.05.1990, so the correction made on 04.05.1990 was only a formality. It was further contended that the plaintiff did not



produce any cogent evidence to show his possession on the date of filing of the suit, and therefore, the appellate court rightly reversed the trial court's findings.

Findings of this Court

13. I have heard the submissions of learned counsel for the parties and carefully examined the record. It is not in dispute that the suit as framed was one for permanent injunction, and, therefore, the plaintiff was required to establish his possession over the suit property as on the date of the institution of the suit.

14. It also stands admitted on record that the plaintiff was in possession of the suit land till the year 1987. The real controversy between the parties is with regard to possession thereafter, as the defendants have consistently pleaded that they came into possession of the suit land as lessee on the basis of patanama.

15. The best evidence to determine possession over agricultural land is the revenue record, particularly the entries in the Khasra Girdawari. It is not disputed that prior to the filing of the present suit, the defendants had already moved an application before the revenue authorities for correction of the Khasra Girdawari entries. Spot inspection was carried out by the revenue officials before the filing of the suit, and on the basis of such inspection, a report was prepared recommending correction of the entries in favour of the defendants. The suit was instituted on 03.05.1990, whereas the entries were formally corrected on 04.05.1990. Hence, it cannot by any stretch of imagination be said that the entries in the Khasra Girdawari were corrected during the pendency of the suit. The correction proceedings had already been initiated prior thereto, and the inspection had been conducted even earlier.

16. The corrected Khasra Girdawari entries thus show the possession of the defendants and not of the plaintiffs. Even if the admissibility of the patanama is



RSA-2644-2000 (O&M)

-7-

kept aside, the documentary evidence in the form of Khasra Girdawari entries, supported by the spot inspection carried out by the revenue authorities prior to the institution of the suit, clearly establishes possession of the defendants over the suit property.

17. It is a settled principle of law that entries in the Khasra Girdawari are the best evidence of possession unless rebutted by cogent and convincing material. No such evidence has been brought on record by the plaintiffs. On the contrary, the plaintiffs have failed to lead any independent evidence from the village or any other source to prove their cultivating possession over the land after 1987.

18. Accordingly, this Court is of the considered opinion that the plaintiffs were not in possession of the suit property on the date of filing of the suit. Consequently, the findings recorded by the learned Lower Appellate Court are affirmed, and the suit of the plaintiffs is liable to be dismissed.

Conclusion

19. In these circumstances, the findings of the lower First Appellate Court cannot be faulted. The plaintiff, having failed to prove the possession on the date of filing of the suit, the dismissal of the suit was, therefore, justified. The judgment and decree dated 22.04.2000 of the learned Lower Appellate Court are accordingly upheld, though on slightly different reasoning, and the present appeal stands dismissed.

20. Pending application(s), if any, also stands disposed off.

September 09, 2025
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(MANDEEP PANNU)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No.