



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-5708-2019 (O&M)

Date of decision :26.09.2025

JAGDISH SINGH

... APPELLANT

VERSUS

SHER SINGH AND ORS.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Sanjiv Kumar Aggarwal, Advocate,
Mr. Tejas Bansal, Advocate,
Mr. Ojas Bansal, Advocate and
Mr. Nissim Aggarwal, Advocate
for the applicant-appellant.

Mr. Sanjay Majithia, Senior Advocate with
Mr. K.K. Garg, Advocate and
Mr. R.P. Daaria, Advocate
for respondent Nos. 1 to 3.

Mr. A.K. Khunger, Advocate
for respondent Nos. 4 to 10.

PARMOD GOYAL, J. (ORAL)**CM-12002-C-2025**

With the consent of counsels for respondents, application is allowed
and main case is taken on Board today itself.

Main Case

1. The appellant is aggrieved by the concurrent findings of fact recorded by the Court of the Civil Judge (Junior Division), Kurukshetra, vide judgment and decree dated 27.02.2015 and Court of the Additional District Judge, Kurukshetra, vide judgment and decree dated 07.09.2018. Vide the aforesaid judgments and decrees, the suit for permanent injunction filed by the plaintiffs was dismissed.

2. The plaintiffs had instituted a suit for permanent injunction, asserting that Plaintiff No. 1, along with his brother Parkash Singh and others, are the owners/co-sharers and in exclusive possession of a bara bearing Khasra No. 170, comprised in Khewat No. 57, Khatoni No. 58, measuring 5 Marlas, situated in the revenue estate of village Devidass Pura, Tehsil Thanesar, District Kurukshetra.

3. It was averred that their father passed away on 15.02.2008, and thereafter, the aforesaid bara devolved upon the plaintiffs by way of inheritance. The same has since been in their exclusive possession and is being used for storing household articles for domestic purposes. It was further alleged by the plaintiffs that the defendants have no right, title, or interest in the said bara. However, the defendants are bent upon to take forcible possession of the same and raising unauthorised construction thereon, which necessitated the filing of the present suit.

4. In their written statement, the defendants took the stand that pursuant to a mutual exchange, both parties are in possession of their respective exchanged parcels of land. It was specifically asserted that the plaintiffs are now in possession of 8 Marlas of land comprised in Khasra No. 94, while the defendants are in possession of 8 Marlas of land comprised in Khasra Nos. 170 and 170/1, measuring 5 Marlas & 3 marlas, respectively. Accordingly, the defendants prayed for the dismissal of the suit.

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

- “1. *Whether plaintiffs are entitled to a decree for permanent injunction, as prayed for? OPP*
2. *Whether the suit is not maintainable? OPD*
3. *Whether the plaintiffs have no locus standi and cause of action to file and maintain the present suit? OPD*
4. *Whether the plaintiffs are estopped by their own act and conduct from filing the present suit? OPD*

5. *Whether the plaintiffs have concealed true and material facts from the Court? OPD*
6. *Relief.”*

6. The learned Court of first instance decided Issue No. 1 against the plaintiffs and in favour of the defendants. Issues No. 2 to 5 were decided against the defendants as these issues were not pressed by them. Accordingly, the suit filed by the plaintiffs was dismissed.

7. The First Appellate Court, on appeal, affirmed the order passed by the Court of first instance. However, while confirming the dismissal of the suit, the Appellate Court recorded findings on Issues No. 2 to 5 in favour of the defendants.

8. The primary dispute in the present case is whether any exchange had taken place between the plaintiffs and defendants.

9. Admittedly, the ownership of Khasra Nos. 170 and 171 vests in the plaintiffs and their brothers. This fact is not in dispute. As regards Khasra No. 170 measuring 3 marlas, no litigation is pending. The litigation pertains solely regarding Khasra No. 170. It is the defendants claim that he is the owner of half share in Khasra No. 94, which is equivalent to 8 Marlas and said 8 marlas was exchanged for khasra Nos.170 & 171/1 measuring 5 marlas & 3 marlas.

10. Learned counsel for the respondents-defendants has rightly referred to the cross-examination of Badan Singh, the plaintiff, who appeared as PW-1. During cross-examination, he admitted that his house is constructed on Khasra No. 94. He further stated that his share, along with that of Jagdish, out of the total 16 Marlas, amounts to one-fourth, while the defendant Sher Singh is the owner to the extent of half share.

11. Both courts have held that an oral exchange took place between the

parties and was duly implemented, as evidenced by the fact that the parties are now in possession of their respective exchanged pieces of land.

12. On one hand, the plaintiff-appellant is in possession of 8 Marlas of Khasra No. 94, which is admittedly owned by the defendant. On the other hand, the defendants are in possession of Khasra Nos. 170 and 170/1 to the extent of 8 marlas, measuring 5 Marlas and 3 Marlas respectively.

13. Apart from admissions made by plaintiff while appearing as PW-1 in present suit regarding ownership of defendant's over khasra No.94 to the extent of 8 marlas and possession over same and that of possession of defendants over khasra no.170/1, the learned Courts below have also taken into consideration similar admissions made by the plaintiffs in a suit filed by the defendants seeking possession of Khasra No. 94. In that suit, while appearing as DW-1, the plaintiff admitted ownership of 8 Marlas in favour of the defendants, who were the plaintiffs in that suit.

14. It is pertinent to note that both parties had filed suits for permanent injunction against each other. The plaintiffs claimed Khasra No. 170, whereas the respondents-defendants claimed Khasra No. 94. The suit filed by the defendants-respondents seeking possession of Khasra No. 94 was dismissed, and the appeal against that dismissal was likewise dismissed. Notably, the defendants did not prefer any further appeal for their claim to Khasra No. 94.

15. Learned counsel for the appellant has argued that the learned Courts below erred in considering the evidence of DW-1 in other suits. However, in view of the fact that the plaintiffs, while appearing in the present case, have also admitted the ownership of the defendants over Khasra No. 94 to the extent of 8 Marlas and their possession thereof, this admission supports the defendants' claim that the suit land was duly exchanged between the parties.

16. The oral exchange and its implementation are further confirmed by

the fact that, as per the oral exchange, 8 Marlas of land owned by the defendants-respondents in Khasra No. 94 was exchanged with an equivalent 8 Marlas of land owned by the plaintiffs in Khasra Nos. 170 and 170/1. Notably, no dispute has been raised by the plaintiffs regarding Khasra Nos. 170/1 measuring 3 marlas, which clearly indicates that an oral exchange was entered into between the parties. However, it appears that the parties are now seeking to resile from the said exchange, which has already been implemented.

17. Learned counsel for the appellant has also argued that the plaintiffs relied on the plaint marked as Exhibit P-6, filed by the defendants in their suit seeking permanent injunction over Khasra No. 94, in which no plea of settlement was made. However, it is pertinent to note that in the present case, the defendants have specifically pleaded and proved the oral exchange between the parties.

18. Therefore, the pleadings in the plaint filed by the defendants in the other suit, which has already been decided and dismissed, cannot have any bearing on the findings recorded by both the Courts below in the present matter.

19. I do not find any error in the judgments and decrees passed by the Courts below. The concurrent findings of fact recorded by the learned Courts are based on the evidence adduced before them and, therefore, do not warrant any interference. No substantial question of law arises for consideration. Accordingly, the present appeal is dismissed.

20. Pending miscellaneous application(s), if any, shall also stand disposed of.

26.09.2025
manoj

(PARMOD GOYAL)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No