



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 28.07.2025

1. RSA-3829-2023 (O&M)

Ram Singh

...Appellant(s)

Vs.

Mukesh and others

...Respondent(s)

AND

2. RSA-3843-2023 (O&M)

Ram Singh

...Appellant(s)

Vs.

Mukesh and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Namit Gautam, Advocate for the appellant(s).

NIDHI GUPTA, J.

RSA-3829-2023 (O&M)

The plaintiff No.1 is in second appeal against the concurrent judgments and decrees of the learned Courts below; whereby the suit for declaration along with consequential relief of permanent injunction filed by the plaintiffs, has been dismissed by both the Courts below; and the counter claim of defendant No. 7 has been dismissed; whereas counter claim of defendant No. 6 has been decreed.

2. Both the above said appeals are being disposed of by this common order as both emanate from common judgments of the



learned Courts below; both appeals are between same parties; one appeal filed against dismissal of the suit of the plaintiffs; and second appeal allowing counter claim of defendant No. 6. For the sake of facility, facts are being drawn from RSA-3829-2023 titled as *“Ram Singh vs. Mukesh and others.”*

3. Brief facts of the case are that plaintiffs filed a suit for declaration to the effect that registered Sale Deed dated 09.07.2025 executed by defendant no.1 in favour of defendant no.6, is null, void and result of fraud as defendant No.1 was neither the owner nor in possession of the suit land. It was the claim of the plaintiff No.1 that he is owner in possession of suit property and had been using the plots and residing there for the last 60 years, which are existing since their birth. However, defendant No.1 in collusion with defendant No. 2 had sold the plot by way of the impugned Sale Deed dated 09.07.2015. With these pleadings, suit was filed by the plaintiffs on 29.08.2015.

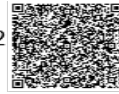
4. Defendants No. 6 and 7 had filed two separate counter claims against the plaintiffs seeking permanent injunction restraining them from interfering in peaceful possession of defendants No. 6 and 7 over the suit property. Learned trial Court vide judgment and decree dated 04.05.2019 had dismissed the suit of the plaintiffs; and had also dismissed the counter claim of defendant No. 7; whereas the counter claim of defendant No. 6 was decreed. Against the said judgment and decree of the learned trial Court, plaintiff no.1 had filed 2 appeals, the same being Civil Appeal No. 303 dated 04.06.2019 against defendant



No.1 titled as "*Ram Singh and others vs. Mukesh and others*"; and second Civil Appeal No. 304 dated 04.06.2019 defendant No.6 titled as "*Ram Singh and others vs. Smt. Angoori Devi and others*". However, learned 1st Appellate Court had dismissed the plaintiffs appeals. Hence, the present Second Appeal.

5. It is *inter alia* submitted by the learned counsel for the appellant that the learned Courts below were in a patent error in dismissing the suit of the plaintiffs while decreeing the counter claim of defendant No. 6 on the ground that Sale Deed in favour of defendant No. 6 was not proven on record. As such, defendant No.1 was unable to prove her title over the suit property. Even the possession of the defendants over the suit property is not proven.

6. On the other hand, appellant is proving himself to be owner in possession of the suit property as the plot in dispute was part of the houses of the plaintiffs and were courtyard of their house. The witnesses examined by both, the plaintiffs as well as the defendants had also fully proved the possession and title of the plaintiffs of the suit property, which was constructed by the ancestors of the plaintiffs about 60 years ago. On the other hand, defendants No. 1 and 6 had led no cogent evidence to prove their title or possession over the plots. The Sale Deed dated 09.07.2015 allegedly executed by defendant No.1 in favour of defendant No.6 is null and void and not binding on the rights of the plaintiffs. Thus, defendant No.6 was not entitled to decree of permanent injunction. Uncalled conclusions and deductions have been drawn by

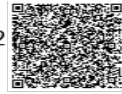


learned Courts below. It is accordingly prayed that present Second Appeal be allowed; and the impugned judgments and decrees be set aside.

7. No other argument is raised on behalf of the appellant.

8. I have heard ld. counsel and perused the case file in detail.

9. The record reveals that there is no merit whatsoever in the case put forth by the appellant/plaintiff. The plaintiff-Ram Singh is claiming to be owner in possession of the suit property. However, the plaintiff has admitted that plaintiffs were not proprietors and were granted residential houses of 100 sq.yds. by the Gram Panchayat. Thus, it was for the plaintiffs to prove that the land in question was under the houses owned by them at the time of commencement of shamlat law. However, as per the admission of PW1 in his cross-examination, the plaintiffs themselves had got their houses in their village for the first time in the year 1974-75. Thus, it was proved that land in question never formed part of houses which was allotted to other weaker sections of society. Thus, it cannot be said that any right, title or interest accrued to the plaintiffs when admittedly, plaintiffs are not proprietors of the suit land in view of Section 4 of the Punjab Village Commons Lands Act. Therefore, plaintiffs were unable to prove their possession or ownership of the property in dispute. The plaintiffs were never able to prove their right, title or interest in the suit property. Despite numerous Court queries, learned counsel for the plaintiff has been unable to show as to in what capacity, he is occupying the suit property. It has been



repeatedly replied by the plaintiff that the title of defendants is defective. However, I find the said argument to be untenable as case of plaintiff has to stand on its own legs. The question before this Court is not the title of the defendants but the nature of the claim of the plaintiff to the suit property. On this, it is admitted by learned counsel for the appellant that although plaintiff claims to be owner in possession of the suit property however, plaintiff was unable to prove the same before the Courts below.

10. Hence, ownership has been correctly declined by learned Courts below.

11. As regards the relief of permanent injunction, it has been candidly admitted by learned counsel for the plaintiffs that defendant No. 6 is in possession of suit land and has constructed boundary wall of the same. Therefore, no injunction can be granted in favour of the plaintiffs. Even further, it is to be noted that the plaintiff has never remained in lawful physical possession of suit property. The record reveals that plaintiffs were landless and non-proprietors. PW2 has admitted in his cross-examination that 100 sq.yds. of plots were allotted to their predecessor-in-interest. Plaintiffs themselves claimed that they were dispossessed but they never filed an application for amendment nor relief of possession was sought; and simplicitor suit for declaration without seeking possession is not maintainable. Undisputedly, plaintiff has entirely failed to establish possession of suit property. It is not



denied by learned counsel for the appellant/plaintiff that plaintiff had ever either symbolic or physical possession of the suit property.

12. In view of the same, no ground to interfere in the concurrent judgments and decrees of the learned Courts below, is made out.

13. Both the appeals, accordingly, stand **dismissed** on merits.

14. Pending application(s) if any also stand(s) disposed of.

28.07.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No