

2025:PHHC:035564



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

**RSA-4212-2019 (O&M)
Reserved on : 27.02.2025
Pronounced on : 17.03.2025**

SUCHA SINGH (DECEASED) THR LRS ...Appellants

VERSUS

HARBANS SINGH (DECEASED) THR LRS & ORSRespondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Surinder Garg, Advocate for the appellants.

ALKA SARIN, J.

1. The present appeal has been preferred by the plaintiff-appellants challenging the judgment and decree dated 03.12.2015 passed by the Trial Court and judgment and decree dated 13.05.2019 passed by the First Appellate Court whereby their suit for declaration and permanent injunction has been dismissed.

2. Brief facts relevant to the present *lis* are that the plaintiff-appellants and the contesting defendant-respondents trace their lineage to a common ancestor, Bahal Singh son of Narain Singh. The plaintiff-appellants are the great grandchildren of Bahal Singh being the children of Sucha Singh son of Udham Singh son of Bahal Singh. The contesting defendant-respondents are the grandchildren of Bahal Singh being the children of Harbans Singh son of Bahal Singh. Though the suit was originally filed by Sucha Singh son of Udham Singh, he expired during its pendency and the plaintiff-appellants were impleaded as his heirs. In the plaint it was averred

that originally Bahal Singh was owner of the suit property and after the death of Bahal Singh it was inherited by his children including Udham Singh (father of the original plaintiff Sucha Singh and grandfather of the plaintiff-appellants). Udham Singh also died and his share was inherited by the original plaintiff Sucha Singh on the basis of natural succession who remained in joint possession of the suit land. As per the plaintiff-appellants they and defendant-respondent Nos.1 to 4 were jointly cultivating the suit land. However, in January 2007 the defendant-respondents started interfering in his possession and disturbed it leading to the filing of a suit for possession through partition on 16.01.2007 by Sucha Singh. In that suit the defendant-respondent Nos.1 to 4 filed a written statement taking a plea that that the plaintiff (Sucha Singh) had sold his share in the suit land in favour of defendant-respondent Nos.5 to 9 vide sale deed dated 31.05.1981 and mutation had also been sanctioned. As such, Sucha Singh withdrew the suit vide order dated 25.09.2009 with liberty to file a fresh one. Hence, the present suit challenging the sale deed dated 31.05.1981 and the consequent mutation with the plea that the sale deed was fictitious and either an outcome of fraud or misrepresentation or impersonation. According to the original plaintiff Sucha Singh, he had been brought on the pretext that some loan was to be taken by the defendant Harbans Singh from the bank and he was required to witness and consent to the grant of loan through some mortgage-deed. It was pleaded that he never sold any land to defendant-respondent Nos.5 to 9 nor received any consideration and had not delivered possession. It was further averred that the original plaintiff Sucha Singh had also

complained to the Police and then the defendant-respondents entered into a compromise and agreed to deliver possession of his share after demarcation. But now the defendant-respondent Nos.5 to 9 had started threatening to alienate the suit land despite the compromise. Hence, the suit. The defendant-respondent No.1 and defendant-respondent Nos.5 to 9 filed their joint written statement raising preliminary objections of maintainability, withdrawal of the previous suit, present suit not being filed in accordance with the permission, limitation, locus-standi, cause of action, mis-joinder and non-joinder of necessary parties, etc. On merits it was pleaded that Sucha Singh son of Udham Singh son of Bahal Singh and Kartar Kaur wife of Bahal Singh had sold the suit land vide registered sale deed dated 25.05.1981 registered on 26.05.1981 and since then the defendant-respondents Balwinder Singh, Chanan Singh, Dharam Singh, Bikkar Singh, Chinda Singh etc. were continuing as owners in possession to the exclusion of whole world including the plaintiff-appellants. As per the defendant-respondents the mutation of inheritance of Bahal Singh was sanctioned in favour of his wife i.e. Kartar Kaur, sons and daughters i.e. Harbans Singh, Banta Singh, Kashmir Singh, Udham Singh and Harbans Kaur. Udham Singh had also died and the plaintiff-appellants were not in possession of even an inch of the suit land and that the plaintiff-appellants never remained in possession after 1981 i.e. execution of sale-deed. The alleged compromise was also denied.

3. On the basis of the pleadings of the parties the following issues were framed :

1. Whether plaintiff is entitled for declaration, as prayed for? OPP
2. Whether plaintiff is entitled for permanent injunction, as prayed for? OPP
3. Whether suit is not maintainable in the present form? OPD
4. Whether suit is time barred? OPD
5. Whether plaintiff has no locus standi or cause of action to file the present suit? OPD
6. Whether the suit is bad for non-joinder and mis-joinder of necessary parties? OPD
7. Relief.

4. The Trial Court vide judgment and decree dated 03.12.2015 dismissed the suit relying on the sale deed dated 25.05.1981 and holding that the compromise set-up by the plaintiff-appellants was not proved to relate to the suit land. The suit was also held to be not maintainable as the plaintiff-appellants had not deposited the costs. Aggrieved by the decision of the Trial Court, an appeal was preferred by the plaintiff-appellants which appeal was dismissed by the First Appellate Court vide judgment and decree dated 13.05.2019. Hence, the present regular second appeal by the plaintiff-appellants.

5. The learned counsel for the plaintiff-appellants has contended that both the Courts have erred in dismissing the suit of the plaintiff-appellants. It is urged that the sale deed set-up by the defendant-respondents

was a result of fraud and misrepresentation and not binding on the plaintiff-appellants. It is further urged that the fact that the defendant-respondents entered into a compromise with the plaintiff-appellants proved that the plaintiff-appellants were co-owners in the suit land and therefore the suit deserved to be decreed.

6. Heard.

7. In the present case both the Courts have non-suited the plaintiff-appellants while relying on the registered sale deed dated 25.05.1987 (Ex.D1). Nothing was produced on the record by the plaintiff-appellants to rebut the presumption attached to the registered sale deed apart from examining Baljit Singh (PW1). The main plank of the arguments addressed by the learned counsel for the plaintiff-appellants is on the compromise Ex.PX. He argued that the fact that a compromise was in existence and signed by the parties proved that the plaintiff-appellants had a share in the suit land. However, as noticed by the Courts, there is nothing which links the suit land to the compromise. Further, on 25.09.2009 the previous suit filed by the original plaintiff Sucha Singh was permitted to be withdrawn and liberty was granted to file a fresh one on payment of costs to each set of the contesting defendants. The order dated 25.09.2009 states that *“Therefore, application of plaintiff is allowed to the effect that plaintiff is allowed to withdraw this suit and is also permitted to file fresh suit if the same shall be made out as per law, but on payment of costs Rs.3000/- i.e. in case plaintiff comes with further litigation against the defendants, costs Rs.3000/- shall be liable to be paid by plaintiff to each set of defendants who*

appeared in this suit and contested this suit". The plaintiff-appellants did not tender these costs in the present suit thus making it not maintainable. No such cogent and reliable evidence has been pointed out by counsel for the plaintiff-appellants to interfere with the concurrent findings recorded by both the Courts. No credible and reliable evidence has been highlighted by the counsel for the plaintiff-appellants for this Court to take a contrary view from the one taken by both the Courts. In view thereof, no fault can be found with the findings returned by both the Courts concerned. No other point was argued.

8. In view of the discussion above, no question of law, much less any substantial question of law, arises in the present case which requires determination by this Court. The appeal, being devoid of any merit, is accordingly dismissed. Pending applications, if any, also stand disposed off.

17.03.2025
Aman Jain

(ALKA SARIN)
JUDGE

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