

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****RSA-721-1991****Reserved on 17.09.2025****Date of decision: 22.09.2025****Manjit Singh and another****...Appellants****Versus****Charan Singh (Since Deceased)  
Through LRs and others****...Respondents****CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA**

Argued by: Mr. Varun Parkash, Advocate for the appellants.

Mr. Rajbir Wasu, Advocate for  
respondent Nos.1 (i-a), 2(a) 1(ii) and 3.

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**DEEPAK GUPTA, J. (ORAL)**

The plaintiffs have preferred the present Regular Second Appeal against the judgment of reversal. Their suit for declaration and permanent injunction regarding the suit property, which was decreed by the learned Trial Court on 09.03.1989, came to be dismissed by the learned First Appellate Court vide judgment dated 02.02.1991, thereby setting aside the decree in their favour.

2. Trial Court record has been summoned and examined with the assistance of learned counsel for both sides. For clarity, the parties are referred to by their status before the Trial Court.

3. The dispute pertains to 45 Kanals of land situated in the revenue estate of Village Mainwan, Tehsil and District Kapurthala, described in the headnote of the plaint. The land, an evacuee property, was allotted in five different portions to Sant Ram, Ganpat, Kirpa Ram, Bhag Mal, and Chanan Devi (*impleaded initially as defendants No.7 to 11*).

4. According to plaintiffs, in 1960, defendant No.1 Charan Singh and Sadhu Singh (*father of the plaintiffs*) started cultivating the suit land in



equal shares without permission of any authority. The land was then banjar and uncultivated. Plaintiffs' case is that their father's and defendant No.1's possession was hostile and continuous. After the death of Sadhu Singh in 1980, the plaintiffs succeeded to his share and continued in possession of one-half portion. They alleged that defendants No.2 and 3 (*sons of defendant No.1*) attempted to alter the khasra Girdawari entries on the basis of forged sale deeds allegedly executed by the original allottees in 1983, though the allottees had never returned to the village after 1961 and some had even predeceased the alleged transactions. Plaintiffs, therefore, sought declaration of ownership and injunction to restrain the defendants from alienating or interfering in their possession.

5. Defendants No.1 & 3 admitted joint cultivation with Sadhu Singh but claimed that it was as tenants under the allottees, to whom produce was paid. He further asserted that after Sadhu Singh's death, he remained in exclusive possession and, along with his sons (defendants No.2 and 3), became owner under registered sale deeds Ex.D-1 to D-5.

6. Defendant No.2 was proceeded ex-parte. Defendants No.4 to 6 filed no written statement. Defendants No.7 to 11 (allottees) were later deleted upon discovery that they had already expired prior to the institution of the suit.

7. The Trial Court, upon appraisal of evidence, disbelieved the defendants' case. It found that the sale deeds Ex.D-1 to D-5 were forged, as the supposed executants (the allottees) were already dead before the alleged execution, and the attesting witnesses were close relatives or associates of defendant No.1. Evidence further proved that the allottees had left the village after 1961 and never returned. Accordingly, the sale deeds were declared null and void. The Trial Court held that plaintiffs and defendant No.1 were in possession of equal shares and, having been in long continuous and hostile possession, had perfected ownership by adverse possession. The suit was accordingly decreed.



8. However, in appeal, though the learned First Appellate Court concurred with the finding that the sale deeds were invalid, but it held that since the original allottees had died prior to filing of the suit and their legal representatives were not impleaded, the plea of ownership by adverse possession could not be sustained. The Appellate Court also observed that after Sadhu Singh's death in 1980, the plaintiffs had not got the revenue entries mutated in their favour, implying absence of possession. On these grounds, the appeal was allowed and the suit was dismissed.

9. Assailing the reversal, learned counsel for the appellants contended that although ownership by adverse possession could not be declared, the evidence conclusively established plaintiffs' possession over one-half share inherited from their father. Non-mutation of revenue entries could not negate actual possession, particularly when the defendants' attempt to get khasra Girdawari changed was rejected by the revenue authorities. The plaintiffs, therefore, at least deserved protection of their possession through injunction.

10. After considering rival submissions and examining the record, this Court finds merit in the appeal. The revenue entries from 1963–64 to 1983–84 (Ex.P-7 to Ex.P-15) show possession of Sadhu Singh and Charan Singh. The entry of tenancy under the allottees is unsupported, since the evidence established that two allottees had perished during partition riots, one died in 1955 and two in 1975. The allottees living at the time of allotment visited the village but had left the same by 1961, never to return. The claim that they had inducted tenants or received produce is inherently false.

11. The Trial Court rightly held that the tenancy entries were incorrect and that possession of Sadhu Singh and Charan Singh since 1960 was without permission of anyone. The finding of the Appellate Court that plaintiffs were not in possession merely because they did not mutate entries post-1980 is unsustainable, especially in the face of overwhelming



oral and documentary evidence and the revenue authority's rejection of defendant's attempts to alter possession entries.

12. Accordingly, while the finding of the First Appellate Court that plaintiffs cannot be declared owners by way of adverse possession is upheld, its finding denying plaintiff's possession is set aside. The plaintiffs are held to be in possession of one-half share of the suit land inherited from their father.

13. In consequence, the appeal is allowed. The judgment and decree of the First Appellate Court are set aside to the extent indicated above. Plaintiff's possession over one-half share of the suit land is protected, and a decree of permanent injunction is passed restraining defendants from alienating the land, creating encumbrances, or disturbing the plaintiff's possession in respect of their one-half share. Decree sheet be drawn accordingly.

**22.09.2025.**

*Yogesh*

**(DEEPAK GUPTA)  
JUDGE**

Whether speaking/reasoned:-  
Whether reportable:-

Yes/No  
Yes/No