



RSA No.2476 of 2000 -1-

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

**105** **RSA No.2476 of 2000 (O&M)**  
**Date of Decision:02.09.2025**

Gurmeeta (since deceased) through LRs ...Appellant

Vs

Smadh Baba Jagroop Dass and others ...Respondents

2. **RSA No.2477 of 2000 (O&M)**

Gurmeeta (since deceased) through LRs ...Appellant

Vs

Smadh Baba Jagroop Dass and others ...Respondents

3. **COCP No.484 of 2001 (O&M)**

Sukhchain Dass and another ...Petitioners

Vs

Surjeet Dass Chela Tulsi Dass Chela Nihal Dass and others  
...Respondents

**CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL**

Present: Mr. Chetan Mittal, Senior Advocate with  
Mr. Ritvik Garg, Advocate  
for the appellant(s) in RSA Nos.2476 and 2477 of 2000 and  
for the petitioners in COCP No.484 of 2001.

Mr. Devansh Verma, Advocate for  
Mr. Anmol Singh Dhillon, Advocate  
for appellant No.2 (respondent No.5 transposed as appellant  
No.2 vide order dated 10.08.2000).

Mr. Sukhjinder Singh, Advocate  
Mr. V.K. Sandhir, Advocate  
for respondent No.1 in RSA Nos.2476 and 2477 of 2000.

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**AMARINDER SINGH GREWAL J. (ORAL)**



1. This order will dispose of two regular second appeals bearing No.2476 & 2477 of 2000 and a contempt petition bearing No.484 of 2001, as they arise from the same proceedings. For the sake of brevity, the facts are being enumerated from RSA No.2476 of 2000.

2. The instant regular second appeals have been preferred by the appellant-defendant against the judgment and decree dated 29.10.1994 passed by the learned trial Court whereby two suits filed by respondents-plaintiffs for permanent injunction restraining the defendants, their servants and agents from interfering into the possession of plaintiffs in the suit property have been partly decreed and against the aforesaid judgment and decree of the learned trial Court, both the plaintiffs and defendants went into appeals and vide judgment dated 29.03.2000, the learned 1<sup>st</sup> Appellate Court dismissed the appeal preferred by the defendants whereas the appeal filed by the plaintiffs was allowed and ultimately, the suit was decreed in toto. The contempt petition has been preferred by Sukhchain Dass and Pritam Kaur, legal representatives of appellant-defendant for willful disobedience of order dated 24.07.2000 passed by this Court at the instance of respondents-plaintiffs.

3. For the sake of convenience, the parties shall be referred to in terms of their status before the learned trial Court.

4. In brief, the facts are that two suits were filed by the plaintiffs seeking permanent injunction against the defendants for restraining them, their agents and servants from interfering into the possession of the plaintiffs with respect to the suit properties as mentioned in the head note of both suits, details of which are as under:-



***“Suit No.139 dated 13.03.1991***

*Suit for permanent injunction restraining the defendants, their servants and agents from interfering into the possession of the plaintiffs from the residential house as shown in the attached site plan and the agricultural land comprised of Khewat Khata No.164/254 mustil 27//killa No.11/8-0, 19/7-12, 20/8-0, 21/6-0, 22/8-0, 23/7-4, 26/2-0, mustil 28//kila No.15/2/4-0, 16/8-0, 17/8-0, 18/8-0, 19/8-0, 23/8-0, 24/8-0, 25/8-0, mustil 37//killa No.3/8-0, 4/8-0, 5/8-0, 6/8-0, mustil 71//killa No.9/0-2, mutil 74//killa No.33/0-14, khatouni No.255 mustil 38//kila No.1/8-0, 2/8-0, 3/1/7-4, 10/8-0, khatouni No.256 mustil 38//killa 9/7-12, khatouni 257 mustil 37//killa No.15/8-0, total measuring 186 kanals 8 marlas situated within the revenue estate of village Ladpur Sub Teh. Amloh, District Fatehgarh Sahib.*

***Suit No.729 dated 22.10.1990***

*Suit for permanent injunction restraining the defendants, their servants and agents from interfering into the possession of the plaintiff and from forcibly dispossessing the plaintiff from land comprised of khewat/khatouni No.164/254, Rect. 27//Killa No.21(6-0), 26 (2-0) situated in the revenue estate of Village Ladpur Sub The. Amloh, District Patiala, two electric motors 5 B.H.P. along with their respective kothas and two rooms of sevens khans each installed/located in the above land.”*

5. In brief, the facts of Suit No.139 dated 13.03.1991 are that plaintiff No.2-Surjit Singh, being the *Mohatmim* of Samadh Baba Jagroop Dass situated in the revenue estate of Village Ladpur was in possession of the suit land including the residential house as shown in the site plan and as enumerated herein above and was owned by plaintiff No.1-Samadh Baba



Jagroop Dass. Further, two electric motors were also installed in the suit land for irrigation purpose. Defendants were trying to grab the suit land as well as the residential house with the help of police. They also filed a false complaint and one ASI accompanied by some police officials rounded up plaintiff No.2 and forcibly obtained his thumb impression on some blank papers at gunpoint. They were requested not to take law in their hands but since they did not pay any heed and continuously threatened the plaintiffs to dispossess them from the suit property, instant suits were filed.

6. Defendants contested the suit by filing written statement and denied the fact that plaintiff No.2 was *Mohatmim* of plaintiff No.1-Samadh and asserted that it was defendant No.1-Gurmeet Singh, who was in possession of the land as comprised in mustil No.38//killa No.1/8-0, 2/8-0, 3/1/7-4, 9/7-12, 10/8-0 since the year 1976-77 and further that the defendants were also in possession of the house as owners as well as of the electric motors. Replication to the written statement was filed by plaintiffs controverting the stand taken by defendants in the written statement and contents of the plaint were reiterated.

7. In another suit bearing No.729 dated 22.10.1990, the land mentioned therein has already been included in details of suit property of suit No.139 dated 13.03.1991. In addition thereto, permanent injunction was sought with respect to dispossession from two electric motors of 5 B.H.P along with kothas, two rooms of 7 khans each installed/located in the suit land. It was also pleaded in this suit that defendant No.1-Gurmeet Singh was the real son of plaintiff No.2 and in connivance with defendant



No.2-Surjit Kaur, he was keeping bad eye on the suit property with an intention to grab the same.

8. In the written statement filed by defendants, besides taking the preliminary objections qua maintainability, barred by Section 10 CPC and *locus standi*, on merit, it was denied that plaintiff No.2 was *Mohatmim* of plaintiff No.1-Samadh and asserted that defendant No.1-Gurmeet Singh was in possession of the suit property.

9. From the pleadings of the parties, separate issues were framed in both the suits, however, during the pendency of civil suits, an application was moved for consolidation of both suits, as the suit property was same as well as issues for consideration were common. The aforesaid application was allowed vide order dated 04.06.1993 with a direction that the evidence will be recorded only in the main case i.e. Civil Suit No.139 dated 13.03.1991 and in the said suit, following issues were framed:-

*“1. Whether the plaintiff No.1 is the owner of the property in dispute except the residential house? OPP*

*2. Whether the plaintiff No.2 is in possession of the property in dispute as Mohatmim? OPP*

*3. Whether the suit is not maintainable? OPD*

*4. Whether the plaintiffs are entitled to the injunction as requested for?*

*4A. Whether the pleas taken by the defendants in the amended written statement are barred by principle of res judicata? OPP*

*4B. Whether the defendants are stopped by their act and conduct from taking pleas in the amended written statement? OPP*

*5. Relief.*



10. In Civil Suit No.729 dated 22.10.1990, following issues were framed:-

- “1. Whether plaintiff No.2 is Mohatmim of plaintiff No.1 Samadh? OPP*
- 2. Whether the plaintiffs are in possession of the suit land?OPP*
- 3. Whether the suit is not maintainable in the present from? OPD*
- 4. Whether the suit is liable to be stayed U/S 10 of the CPC? OPD.*
- 5. Whether the plaintiffs are entitled to the injunction as requested for? OPP*
- 6. Relief.”*

11. On appreciation of oral as well as documentary evidence, the learned trial Court vide judgment and decree dated 29.10.1994, partly decreed the Civil Suit No.139 dated 13.03.1991 for permanent injunction restraining the defendants, their servants and agents from interfering into the possession of plaintiffs qua suit property except part of the suit land as comprised in Khasra No.38/1(8-0), 2(8-0), 3/1(7-0) and 10(8-0), total measuring 31 kanals 4 marlas, meaning thereby, suit qua aforesaid part of the suit land was dismissed; whereas Civil Suit No.729 dated 22.10.1990 was decreed fully.

12. Both the plaintiffs and defendants went into appeals against the aforesaid judgment and decree dated 29.10.1994 passed by the learned trial Court and vide judgment dated 29.03.2000, the learned 1<sup>st</sup> Appellate Court dismissed the appeal preferred by the defendants whereas the appeal filed by the plaintiffs was allowed and the suit filed by the plaintiffs was



decreed in toto. Aggrieved against the same, the defendants have approached this Court by way of instant regular second appeals.

13. Mr. Chetan Mittal, learned Senior Counsel assisted by Mr. Ritvik Garg, Advocate submits that the learned 1<sup>st</sup> Appellate Court gravely erred in decreeing the suit of the plaintiffs in toto by ignoring the fact that defendant No.1 had duly proved possession of land comprised in Khatoni No.255, mustil No.38//Killa No.1(8-0), 2(8-0), 3/1/7-4, 9/7-12, 10/8-0. Furthermore, defendant No.1 had been in possession of the aforesaid land since 1976 till the filing of the suit in 1990, thus, his possession was hostile and continued, which ought to have been protected. Both the Courts below have not rendered any finding on the issue whether plaintiff No.2 was *Mohatmim* of plaintiff No.1-Samadh and in the absence of any such finding, the suit filed by the plaintiffs seeking permanent injunction was wrongly decreed. In fact, on 21.09.1999, panchayats of various villages unanimously decided to appoint defendant No.1 as *Mohtamim* of plaintiff No.1-Samadh and in pursuance thereto, the community of Shri Garib Dass Jee appointed defendant No.1 as *Mohatmim* of plaintiff No.1-Samadh. It is also argued that report of local commissioner has been wrongly discarded by both the Courts below.

14. Per contra, learned counsel appearing for respondents submits that the judgments and decrees passed by both the Courts below are based on correct appreciation of facts and law and therefore, no interference is required in the regular second appeals filed by the appellants.

15. I have heard learned counsel for the parties and have gone through paper book with their able assistance.



16. As regards the argument raised by learned senior counsel for the appellants that there is no finding rendered by both the Courts below on the status of plaintiff No.2 as *Mohatmim* of plaintiff No.1-Samadh, reference is made to jamabandi for the year 1986-87, which duly proved that the property was the ownership of plaintiff No.1-Samadh, affairs of which were being managed by plaintiff No.2 as proved from testimonies of PW-1 Surjeet Dass and PW-2 Banta Singh. Rather, defendant No.1-Gurmeet Dass while appearing as DW-1 in his cross-examination, admitted the plaintiff No.2 being *Mohtamim* of plaintiff No.1-Samadh, though concocted a story of him being involved with a lady but the same was discarded by both the Courts below as was not substantiated by any cogent evidence.

17. The case set up by defendant No.1 that he was in exclusive possession of the entire suit property falls flat, as plaintiff No.2 stood recorded in possession of the suit property as per Ex.P7 except the land comprised in Khatauni Nos.255, 256 and 257. Defendant No.1 was shown in possession of Khasra No.38/1(8-0), 2 (8-0), 3/1(7-0) and 10(8-0), total measuring 31 kanals 4 marlas and Gurmail Singh, another son of plaintiff No.2- Surjit Dass had been recorded in possession of Khasra No.38/9(7-12) and Shingara Singh in Khasra No.37/15(8-0). With respect to Khasra Nos.38/9 and 37/15, a change of khasra girdawari stood recorded in favour of plaintiff No.2-Surjit Dass w.e.f. Kharif 1990 to Kharif 1991. With respect to Khasra No.38/1(8-0), 2 (8-0), 3/1(7-0) and 10(8-0), entry in column No.9 of jambandi Ex.P7, defendant No.1 was shown in possession of aforesaid khasra numbers as *ba-waja-pishar*, which connotes that



defendant No.1 was in cultivating possession through plaintiff No.2, his father. It was duly established that plaintiff No.2 was *Mohatmim* of plaintiff No.1-Samadh and being manager of the property of plaintiff No.1-Samadh, defendant No.1 was in possession through plaintiff No.2. Therefore, it is rightly held by the learned 1<sup>st</sup> Appellate Court that mere recording of the name of defendant No.1 in khasra girdawaries, Ex.D1 to D4, does not confer him exclusive possessory right of the land in dispute, forming part of Khasra No.38//1(8-0), 2(8-0), 3/1(7-4), 9(7-12) and 10(8-0). Further, As regards, report of the local commissioner, the learned Courts below have rightly not taken into consideration his report, as neither he consulted the revenue record nor took help of any revenue official. The exclusive possession of defendant No.1 cannot be established merely from the fact that when the local commissioner reached at the spot, son of defendant No.1 started cutting the crop standing at the suit property.

18. In view of the judgments passed by the Hon'ble Supreme Court in *Pankajakshi (Dead) through Legal Representatives and others Vs. Chandrika and others (2016) 6 SCC 157*, *Randhir Kaur Vs. Prithvi Pal Singh and others (2019) 17 SCC 71* and *Gurbachan Singh (dead) through LRs Vs. Gurcharan Singh (dead) through LRs and others*, questions of law are not required to be framed in second appeal before the Punjab and Haryana High Court whose jurisdiction is circumscribed by provisions of Section 41 of the Punjab Courts Act, 1918.

19. As an upshot of above discussion, this Court finds no illegality and perversity in concurrent finding of fact rendered by both the Courts below and the same is upheld. The regular second appeals are dismissed.



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20. In view of the fact that regular second appeals stand dismissed, no further order is required to be passed in the contempt petition, thus, the same is dismissed as such.

21. Pending misc. application(s), if any, also stand disposed of.

**(AMARINDER SINGH GREWAL)**  
**JUDGE**

**September 02, 2025**

Pankaj\*

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No