



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CR-5273-2025 (O&M)

Date of decision :12.08.2025

POHAB SINGH @ POHAP SINGH AND ANOTHER

... PETITIONERS

VERSUS

GRAM PANCHAYAT, SADAT NAGAR AND OTHERS ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Ajay Jain, Advocate
for the petitioners.

PARMOD GOYAL, J. (ORAL)

Plaintiffs-petitioners are aggrieved by dismissal of their application under Order 39 Rules 1 and 2 read with Section 151 CPC by both the Courts vide impugned orders dated 06.03.2025 and 31.07.2025 passed by Court of Civil Judge (Junior Division) Kosli and Additional District Judge, Rewari respectively.

2. Plaintiffs-petitioners have preferred suit for declaration and permanent injunction against respondents. In their suit, plaintiffs-petitioners have asserted that plaintiffs are owners in possession of property within *Lal Dora* of village Sadat Nagar marked F, G, H, M, L, K, J, A and I duly shown in the site plan. The said property was stated to be ancestral property. Plaintiffs-petitioners additionally claimed ownership of property marked as A, B, C and D which they had inherited from Smt. Krishna Devi wife of plaintiff No. 1 and mother of plaintiff Nos. 2 and 3, who had purchased the same vide sale-deed No. 529 dated 26.06.2015 from Karambir and Ashok Kumar. It is a case of plaintiffs-petitioners that at the time of executing sale-deed, certain dimensions and boundaries were



wrongly recorded, which later came to plaintiffs' knowledge during a drone mapping, which can be rectified by preparing a supplementary sale-deed. Since present Sarpanch refused to cooperate in executing of supplementary sale-deed and defendants are taking undue advantage of incorrect dimensions and boundaries and unavailability of records. It is asserted that defendants are intending to demolish existing drain duly shown in the site plan and are in the process of constructing new drain passing through plaintiffs' property marked C, N, I and H as shown in site plan. Despite request, defendants are continuing with their ill designs and have issued notice dated 08.08.2023 under Section 24(1) of the Haryana Panchayati Raj Act, 1994 to plaintiffs, and the same was duly replied but defendants have refused to accept the reply. Thereafter, defendants remained silent for some time but issued another notice dated 05.12.2024, which was also replied, however, another notice under Section 24(2) of the Haryana Panchayati Raj Act, 1994 has been issued to plaintiff (Parveen Kumar). The action of defendant No. 2 is stated to be illegal and accordingly defendants along with suit had preferred an application under Order 39 Rules 1 and 2 CPC for restraining defendants from interfering in possession of plaintiffs over the suit property.

3. Defendants in their written statements denied the case set up by plaintiffs and asserted that area shown with C, N, H and I in the site plan is shamlat chowk and is owned and possessed by Gram Panchayat Sahadat Nagar, Tehsil Kosli, District Rewari. It was asserted that earlier plaintiff had filed a civil suit bearing no. 149/RT/2013, which was dismissed as withdrawn by the Court of learned Additional Civil Judge (Senior Division), Kosli on 21.08.2013. The withdrawal was done after application under Order 39 Rule 1 and 2 CPC preferred by plaintiff in the said suit was decided against plaintiff vide order dated 28.02.2013. Against said order, plaintiff had preferred an appeal before Appellate



Court and the same was also dismissed as withdrawn. Plaintiff had made a statement that he will file an application before Assistant Collector First Grade Kosli for getting the title of the suit land adjudicated. Defendants claimed that suit land is owned and possessed by Gram Panchayat, Sahadat Nagar being Shamlat Chowk bearing Property ID No. 623550012 and plaintiffs have no right and title over the suit property.

4. Both the Courts below after considering respective contentions of parties concluded that plaintiffs have failed to prove *prima-facie* case in their favour. Balance of convenience was also not found in favour of plaintiffs and hence application under Order 39 Rule 1 and 2 CPC was dismissed.

5. Learned counsel for the petitioners-plaintiffs has argued that learned Lower Courts have erred in not appreciating scope of certificate issued by Ex-Sarpanch in favour of plaintiffs and fact that plaintiffs are in possession of suit property for more than 40 years. Plaintiff also argued that sale-deed of land which includes suit property also is in his favour, however, defendants are trying to take benefit of error in the sale-deed, which can be rectified.

6. On consideration of contentions raised by plaintiffs-petitioners as well as perusal of documents attached with revision petition, it is clearly made out that suit property is situated in *Lal Dora* and is part of Abadi Deh. There is no document of title in favour of plaintiffs-petitioners. Plaintiffs-petitioners are claiming that disputed part of property was also purchased vide sale-deed executed in favour of their wife/mother. However, in same breath, they admit that the sale-deed is erroneous and does not contain true extent of area covered by it and needs to be rectified. It is also not in dispute as is made out from the orders of both the Courts that plaintiffs had earlier also filed a suit for permanent injunction which he has withdrawn after failing to get interim injunction in his



favour. His application under Order 39 Rule 1 and 2 CPC in previous suit was dismissed and appeal against the said dismissal was also withdrawn by plaintiff. Plaintiff had also withdrawn his suit by making statement that he will approach Assistant Collector for determining ownership of Gram Panchayat, Sahadat Nagar over the suit property. This statement of plaintiff, therefore, clearly shows that except for self serving certificate of Ex-Sarpanch which is without any authority, there is no material in faovur of plaintiff to show that plaintiff is owner in possession of disputed suit property.

7. During the course of arguments, learned counsel for the petitioners has also made reference to photographs of the property. A perusal of photographs goes to show that disputed land lies between boundary wall of plaintiff's house and drain and is open area. The first principle regarding Abadi Deh clearly lays down that all open land not in exclusive possession of any villager falls within ownership of Gram Panchayat. Photographs clearly establishes that disputed suit property is open land beyond the boundary wall of plaintiffs-petitioners and, therefore, *prima-facie* clearly made out that suit property is Shamlat Chowk. Plaintiff had failed to establish *prima-facie* case that he is owner in possession of disputed suit property. Balance of convenience has rightly been held to be against plaintiff. Plaintiff-petitioner is not entitled to any relief under Order 39 Rule 1 and 2 CPC.

8. In view of above discussion, no error with the detailed orders passed by learned Courts below can be found. Orders dated 06.03.2025 and 31.07.2025 passed by Court of Civil Judge (Junior Division Kosli) and Additional District Judge, Rewari are upheld.

9. Petition is without merit, hence dismissed.



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

12.08.2025
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(PARMOD GOYAL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No