



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

**RSA-727-1990 (O&M)
Decided on : 12.05.2025**

Bikkar Singh (deceased) through LRs

..... Appellant

Versus

Bachittar Singh (deceased) through LRs

..... Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present : Mr. Baltej Singh Sidhu, Senior Advocate with
Mr. Chandan Singh, Advocate and
Mr. Robin Singh Bhullar, Advocate
for the appellant.

Mr. Gaurav Chopra, Senior Advocate with
Mr. Harmeet Singh, Advocate and
Mr. Nitin Rampal, Advocate
for the respondent.

VIKRAM AGGARWAL, J (ORAL)

This is plaintiff's appeal against the judgment and decree dated 12.12.1989, passed by the Court of Additional District Judge, Faridkot vide which the appeal filed by the plaintiff against the judgment and decree dated 06.02.1988, passed by the Court of Additional Senior Sub Judge, Faridkot was dismissed and the appeal filed by the defendant against the said judgment and decree was allowed.

2. For the sake of convenience and clarity, parties shall be referred to as per their original status.

3. Once again, parties to the lis are real brothers namely Bikkar Singh and Bachittar Singh, both sons of Dasondha Singh. They migrated from Pakistan at the time of partition. They were allotted land at Village Wara Daraka and



Village Simrewala in District Faridkot in lieu of the land left in Pakistan. The present issue is with regard to the land situated at Village Simrewala. The plaintiff (Bikkar Singh) instituted a suit for joint possession and declaration that he was owner of half share of land measuring 98 kanals 6 marlas (fully described in the plaint), situated at Village Simrewala (hereinafter referred to as 'the suit property') and that he was entitled to recover mesne profits from the defendant (Bachittar Singh) from Sawani 1984. It was averred that parties were real brothers and plaintiff was owner of half share of the suit property, the same having been purchased from the Central Government pursuant to which Sanad dated 07.03.1956 was issued.

4. It was averred that the plaintiff had been residing in Village Wara Daraka and defendant had been residing in Village Simrewala. The plaintiff was managing and cultivating the land at Village Wara Daraka including the share of the defendant whereas the defendant used to manage and cultivate the land at Village Simrewala including the share of the plaintiff. The case set up was that the defendant, in connivance with the *halqa* patwari and other revenue officials got the name of the plaintiff omitted from the revenue record of Village Simrewala and the whole land was shown to be under the ownership of the defendant. It was averred that the defendant remained silent for a number of years after having got the revenue record altered whereafter he started interfering in the peaceful possession of the plaintiff in the land at Village Wara Daraka and also took forcible possession of the same. Despite repeated requests, the defendant did not admit the claim of the plaintiff, leading to the filing of the suit.

5. The suit was opposed by the defendant. In the written statement, the



relationship between the parties was admitted. It was claimed that the entire suit property was under the ownership of the defendant. Out of the total suit property, land measuring 50 kanals 13 marlas had been purchased by the defendant from the Central Government and the remaining land had been allotted to him. It was also averred that he was a co-sharer in the land which was situated at Village Wara Daraka whereas the land situated at Village Simrewala was under the sole ownership of the defendant.

6. In the replication, averments made in the written statement were denied and those made in the plaint were reiterated.

7. From the pleadings of the parties, the trial Court framed the following issues:-

1. Whether the plaintiff has $\frac{1}{2}$ share in the suit land and is entitled to joint possession of the same of the suit land ? OPP.
2. Whether the defendant has purchased the suit land from Central Government ? OPD.
3. Relief.

8. Parties led their respective evidence.

9. The trial Court partly decreed the suit filed by the plaintiff and held that the defendant was the exclusive owner of the land measuring 50 kanals 13 marlas and the plaintiff and the defendant were owners in equal share of the remaining suit land. Both the parties preferred appeals. The appeal preferred by the plaintiff was dismissed and that preferred by the defendant was allowed. The judgment of the trial Court was set aside and the suit filed by the plaintiff was dismissed. It was held that the land measuring 50 kanals 13 marlas had been



purchased by the defendant whereas the remaining land out of total land measuring 98 kanals 6 marlas had been allotted to the defendant.

10. I have heard learned counsel for the parties.

11. Sh. Baltej Singh Sidhu, Senior Advocate representing the plaintiff has narrated the entire sequence of events. He submits that vide sanad dated 07.03.1956 (Ex.P2/Ex.D2), the suit land had been allotted to the parties to the lis and the defendant got the name of the plaintiff erased from the said document which was concurrently found by both Courts. He submits that though the said allotment was subsequently set aside vide order dated 12.06.1961 (Ex.D5), land measuring 50 kanals 13 marlas was jointly purchased by the parties. Learned counsel has made reference to the affidavit dated 28.05.1960 (Ex.P5) wherein Bachittar Singh admitted that Bikkar Singh had also paid the money for purchase of the land. Learned Senior Counsel also referred to the relevant documents to prove that the claim for the land had been submitted jointly by both brothers and against the cancellation of the allotment, appeal (Ex.PA) had jointly been filed by both brothers meaning thereby that both brothers were owners of the suit property.

12. Learned counsel has referred to the findings recorded by the Courts and has submitted that the oral and documentary evidence led on the record of the case clearly proves that the suit land was jointly owned by both brothers.

13. Per contra, Sh. Gaurav Chopra, Senior Advocate representing the defendant has submitted that there is no illegality in the decision rendered by the Court of Additional District Judge, Faridkot. Reference has been made to the document of allotment dated 07.03.1956 (Ex.P2/Ex.D2) vide which land measuring 6-14 1/4 standard acres was allotted. As regards the balance land



measuring 3-9 standard acres, the same was sold to the defendant, permission regarding the same was granted on 17.08.1961 Ex.D6 in favour of Bachittar Singh and pursuant thereto documents Ex.D8 and Ex.D9 were executed and proprietary rights were conveyed to the defendant while referring to the document dated 28.06.1968 Ex.D8. Learned counsel has submitted that the land allotted to the defendant was 3-9 standard acres which came to 50 kanals 13 marlas which would be clear from the document Ex.D1 executed on 28.06.1978. Reference has further been made to the documents Ex.PA and Ex.PB and it has been submitted that it was duly proved on record that land measuring 3-5 1/4 standard acres was allotted to the defendant and 3-9 standard acres was sold to him. Learned Senior Counsel submits that under the circumstances, the First Appellate Court rightly allowed the appeal filed by the defendant and dismissed the appeal filed by the plaintiff.

14. I have considered the submissions made by learned counsel for the parties.

15. As regards the scope of second appeal, it is now a settled proposition of law that in Punjab & Haryana, second appeals preferred are to be treated as appeals under Section 41 of the Punjab Courts Act, 1918 and not under Section 100 CPC. Reference in this regard can be made to the judgment of the Supreme Court in the case of *Pankajjaksi (Dead) through LRs and others versus Chandrika and others (2016) (6) SCC 157* followed by judgments of the Supreme Court in the cases of *Kirodi (Since Deceased) through his Lr. Versus Ram Parkash & Ors. 2019 (3) R.C.R. (Civil) 168* and *Satyender and Ors. Versus Saroj and Ors. 2022 (12) Scale 92*. Relying upon the law laid down in the aforesaid judgments, no substantial question of law is required to be framed and



this Court shall proceed to answer the question which arises for consideration.

16. Admittedly, there is no dispute as regards the land in Village Wara Daraka and the present lis pertains only to the land situated at Village Simrewala. Sanad dated 07.03.1956 was issued in favour of both brothers namely Bachittar Singh and Bikkar Singh. Both Courts found that the name of Bikkar Singh had been erased from the said document by the defendant Bachittar Singh which was duly proved by the plaintiff by examining an expert as well. During the course of arguments, learned Senior Counsel representing the defendant has submitted that there is no challenge to the said findings and that eventually, it will not affect the merits of the case.

17. This allotment came to be cancelled vide order dated 12.06.1961 Ex.D5, a translated copy of which is available on the record, the same having been prepared by the Registry upon directions having been issued by a Coordinate Bench on 12.05.2023. The Document Ex.D5 clearly lays that land measuring 6-14 $\frac{1}{4}$ standard acres, situated at Village Simrewala, District Faridkot had been temporarily allotted to Bikkar Singh and Bachittar Singh sons of Dasondha Singh. Upon clarification, it was found that Bachittar Singh owned the land in Pakistan whereas Bikkar Singh did not. As per the land owned by Bachittar Singh in Pakistan, he was found entitled to land 3-5 $\frac{1}{4}$ standard acres and Bikkar Singh was not found entitled to allotment of any land. As regards the balance land measuring 3-9 standard acres, the same was ordered to be cancelled and corrections were ordered to be made in the record. Subsequently, vide order dated 17.08.1961 Ex.D6 permission was granted for sale of land measuring 3-9 standard acres in favour of Bachittar Singh. Pursuant to the same, a sum of ₹3162.50 was also



deposited by Bachittar Singh and requisite corrections were made in the revenue record. Documents Ex.D5 and Ex.D6 read as under:-

“Ex.D5

Case received from DLR 648-D

Copy of order dated 12.6.1961 passed by Sh. Prem Singh, SO/HO
Bikkar Singh, Bachittar Singh ss/o Dasondha Singh

Order

In lieu of land situated at *chak* No.312, Tehsi Fort Abba, an area i.e. 6-14 $\frac{1}{4}$ SA situated in Shamire Wala, Hadbast 21, Tehsil Faridkot, District Bhatinda had been temporarily allotted, on verification, to Shri Bikkar Singh-Bachittar Singh sons of Dasondha Singh. Record of Jamabandi has come from Pakistan. Area in the name of Bachhittar Singh s/o Dasondha Singh has been found. Area in the name of Bikkar Singh has not been found. Auction record has not come from Pakistan. As per auction formulae, *hisab* (calculation) of Bachhittar Singh, allottee has been prepared. Shri Bachittar Singh is entitled to 3-5 $\frac{1}{4}$. Bikkar Singh is not entitled to the allotment. Through registered notice, allottees were summoned. Shri Bikkar Singh-Bachitter Singh came present and submitted their affidavits. They were given dates to produce written evidence in respect of extra/exceeding area 3-9 SA. But no evidence has been produced to date. Today, Shri Bachittar Singh has come present. Area has been read over. Therefore, in accordance with above mentioned facts, the extra/exceeding area i.e. 3-9 SA is hereby dismissed. Tehsildar *sahib* will give the *sanad* (certificate) of ownership in respect of rights transferred in the name of Bachittar Singh in accordance with the procedure. He will also collect 8 times of *muamla* (revenue) of land as *lagan* (tax) in respect of extra/exceeding area i.e. 3-9 SA. From the documents of



allotment, name of Bikkar Singh is hereby removed/dismissed. The removed/dismissed area's *muavza* (compensation) will be produced in pool. Corrections be carried out in the documents. Necessary orders/instructions be issued. Order is hereby passed.

Sd/- Prem Singh in English
SO/HO
12/6/61

Ex.D6

Case received from DLR 648-D
BWL

Copy of order dated 17.8.61 passed by Sh. Prem Singh SO/HO
Bikkar Singh, Bachhhittar Singh ss/o Dasondha Singh, v.
Shamire Wala
HB 21, Teh. Faridkot

Today, case file was produced. Shri Bachittar Singh has come present. He has been directed to appear before Naib Tehsildar, Sale tomorrow and receive the challan as per the order of Asc, *sahib* [sic]. Permission to sell the area i.e. 3-9 SA is hereby granted.

Sd/- Prem Singh in English
SO/HO
17/8/61”

18. It is, therefore, clear that Bikkar Singh was no longer the owner of any land in Village Simrewala. No doubt, against the order of cancellation, appeal (Ex.PA) was jointly filed by both brothers . This, of course, had to be filed jointly because earlier the allotment was in the name of both brothers. The appeal was



also dismissed on 26.07.1961 (Ex.PB) by the Assistant Settlement Commissioner exercising the powers of the Settlement Commissioner, Punjab. It, therefore, means that the cancellation attained finality and the land measuring 3-9 standard acres was sold to the defendant.

19. There was some confusion in the mind of the Court as to how the total land was 98 kanals 6 marlas. The said confusion was clarified from the document Ex.D1 dated 28.06.1978 (Conveyance deed as regards land measuring 3-9 standard acres). As per the said document, 3-9 standard acres comes to 50 kanals 13 marlas which has been fully described in the document (11 kanals 15 marlas situated in khasra No.117, 14 kanals 9 marlas in khasra No.118, 14 kanals 9 marlas in Khasra No.119 and 10 kanals in khasra No.120) making it to be a total of 50 kanals 13 marlas. The balance was 3-5 ¼ standard acres which, therefore, comes to 47 kanals 13 marlas making the total land to be 98 kanals 6 marlas.

20. The Court of Additional District Judge, Faridkot, therefore, rightly allowed the appeal filed by the defendant and dismissed the appeal filed by the plaintiff and as a result dismissed the suit filed by the plaintiff. I do not find any illegality in the said judgment and decree warranting interference.

In view of the above, I do not find any merit in the present appeal and the same is hereby dismissed.

Pending application(s), if any, stand(s) disposed of accordingly.

12.05.2025
mamta

(VIKRAM AGGARWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No