



RSA-1259-1993 (O&M)

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

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RSA-1259-1993 (O&M)
Reserved on:-03.12.2025
Pronounced on:- 12.12.2025
Uploaded on:- 15.12.2025

*Whether only operative part of the judgment is
Pronounced or the full judgment is pronounced:* *operative part/full judgment*

Gajjan Singh (since deceased) through LRs Appellant

VERSUS

Balaki Ram (since deceased) through LRs and Others Respondents

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Vikas Singh, Sr. Advocate assisted by
 Ms. Anamika Sheoran, Advocate for the appellant.

 Mr. G.S.Madaan, Advocate for respondents No.1 to 7.

 Ms. Monika Jalota, Advocate for respondents No.9 to 12.

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MANDEEP PANNU, J.

1. Present Regular Second Appeal has been filed by Gajjan Singh, appellant/defendant No.1, now represented through his legal representatives, challenging the judgment and decree of reversal passed by the learned Lower Appellate Court dated 05.05.1993, whereby the judgment and decree passed by the learned Trial Court dated 26.05.1990 were set aside.

Brief Facts

2. Briefly stated the facts of the case are that Balaki Ram and six other plaintiffs filed a suit for permanent injunction alleging that they were in peaceful, continuous and lawful possession of the suit land comprised in Khasra No. 383/2 situated in the revenue estate of village Balaspur, Tehsil and District Patiala. It was asserted that they had been in lawful possession as owners for more than 20 years

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and that the defendants were threatening to dispossess them in an illegal and unlawful manner without having any right, title or interest in the suit property. They relied upon the revenue record to show their possession and pleaded that the defendants be restrained from interfering in any manner with their possession.

3. Upon notice, the defendants contested the suit by filing a written statement denying the possession of the plaintiffs over the land in dispute. Their stand was that they themselves had been in possession of the suit land for the last 20 years continuously as owners and, therefore, the plaintiffs were not entitled to any injunction. They further raised an objection that the suit in the present form was not maintainable. The plaintiffs thereafter filed a replication controverting the allegations made in the written statement and reiterating the assertions contained in the plaint.

4. On the basis of the pleadings of the parties, the learned trial court framed the following issues:

1. Whether the plaintiffs are entitled to the injunction as prayed for? OPP.
2. Whether the plaintiffs are in possession of the suit land? OPP.
3. Relief.

Findings of the Trial Court

5. From the appreciation of the pleadings and evidence led by both sides, the trial court recorded a clear finding that the plaintiffs failed to prove their possession over the suit land on the date of institution of the suit or immediately prior thereto. The court noticed that although PW-1 Gamma Ram stepped into the witness box and asserted that the plaintiffs had been in cultivating possession of the disputed land for the last 25/30 years, his solitary and highly-interested

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testimony did not inspire confidence, particularly in the absence of any independent corroborative evidence. The court specifically observed that the plaintiffs neither examined any lambardar nor any other respectable resident of the village to support their assertion of possession.

6. The trial court further found that the documentary evidence relied upon by the plaintiffs, including Jamabandi for 1986–87 (Ex. P-1) and Khasra Girdawari for 1987–88 and 1988–89 (Ex. P-2), did not establish their cultivating possession. It was noticed that the name of the plaintiffs was recorded in the column of cultivation only for certain years, but this entry could not be relied upon to conclude actual possession of the plaintiffs on 27.05.1988, when the suit was filed, because the revenue entries were later corrected by the competent revenue authority.

7. On the other hand, the defendant Gajjan Singh appeared as DW-1 and stated that he had been in possession of the disputed land for the last 40 years, and the certified copies of the order (Ex. D-1) and the corrected Khasra Girdawari for 1987-88 to 1989-90 (Ex. D-2) supported his stand. These documents reflected that in pursuance of an order of the Assistant Collector, 2nd Grade, Patiala regarding correction of Khasra Girdawari, the defendant was shown in possession. The court held that since the order of correction had neither been set aside nor stayed in appeal, the said entries could not be ignored.

8. In view of the above discussion, the trial court concluded that the plaintiffs had completely failed to establish their possession over the suit land and consequently were not entitled to the relief of permanent injunction as prayed for. Issues No. 1 and 2 were accordingly decided against the plaintiffs, and the suit was dismissed.

**Findings of the Lower Appellate Court**

9. Feeling aggrieved against the impugned judgment and decree dated 26.05.1990 passed by the learned Trial Court, the plaintiffs/appellants preferred an appeal before the learned Lower Appellate Court. After hearing learned counsel for the parties and carefully examining the evidence on record, the learned Lower Appellate Court reversed the findings of the Trial Court.

10. The Lower Appellate Court observed that the plaintiffs/appellants had successfully established their possession over the suit land for more than 20–25 years. The Court noted that the plaintiffs had produced Jamabandis for the years 1972–73, 1977–78 and 1981–82 as well as Khasra Girdawaris for the year 1991–92 through additional evidence, all of which consistently reflected their cultivating possession. On the other hand, the defendants/respondents, despite claiming possession for the last 40 years, failed to produce any Jamabandi entry supporting such a long-standing claim.

11. The Court further found that the Khasra Girdawari entries for 1987–88 and 1988–89 in favour of the defendants were stray entries, made during the pendency of the civil suit, and could not be relied upon particularly when the entire earlier revenue record stood in favour of the plaintiffs. It was also noticed that the correction of Khasra Girdawari in favour of the defendants appeared to have been made with the connivance of the Revenue Officer, and such corrected entries could not displace long-standing entries showing the plaintiffs' possession.

12. The Lower Appellate Court held that the overwhelming documentary evidence produced by the plaintiffs established their possession for more than 20 years prior to the filing of the suit. Since possession is the primary consideration in a suit for injunction, the Trial Court erred in dismissing the suit on the basis of

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isolated and recently corrected entries. The presumption of truth attached to Jamabandi entries further strengthened the case of the plaintiffs/appellants.

13. Consequently, in view of the above discussion, the Lower Appellate Court accepted the appeal, set aside the judgment and decree of the Trial Court dated 26.05.1990, and decreed the suit for permanent injunction, restraining the defendants/respondents from interfering in the peaceful possession of the plaintiffs/appellants over the suit land.

14. Feeling aggrieved by the judgment and decree of reversal passed by the learned Lower Appellate Court dated 05.05.1993, the present Regular Second Appeal has been preferred by defendant No.1, now represented through his legal representatives. The respondents appeared and contested the appeal.

Submissions of learned counsel for the appellant

15. Learned counsel for the appellant/defendant argued that the impugned judgment of the learned first appellate court is wholly erroneous, perverse and contrary to the record. It was contended that the trial court had rightly dismissed the suit upon a correct appreciation of the revenue entries and oral evidence, and the lower appellate court has illegally reversed those findings without any substantive basis.

16. It was further argued that the earlier revenue entries showing possession of the plaintiffs were wrong and had been corrected by the competent revenue authorities after due spot inspection and verification. Learned counsel submitted that the Assistant Collector, while deciding the application moved by the appellant for correction of Khasra Girdawari, had categorically found the appellant to be in actual physical possession of the land in dispute, and the corrected Khasra Girdawari entries, therefore, carried a presumption of correctness. It was submitted

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that the plaintiffs were never in possession of the suit land and had tried to take undue advantage of wrong entries earlier recorded in the revenue record. The appellant also argued that the lower appellate court misdirected itself in law in discarding the report of the revenue officer, failed to appreciate the latest Jamabandi for the year 1990–91 which stood in favour of the appellant, and ignored the significant circumstance that the plaintiffs had neither examined any Lambardar nor any independent witness from the village to prove their alleged possession.

Submissions of learned counsel for the respondent

17. On the other hand, learned counsel for the respondents/plaintiffs argued in support of the judgment passed by the learned lower appellate court, reiterating the submissions earlier made before the said court. It was contended that the plaintiffs had been in continuous cultivating possession of the suit land for more than 20–25 years, as reflected from the Jamabandis and earlier Khasra Girdawaris brought on record. The respondents submitted that the correction of Khasra Girdawari made by the revenue authorities during the pendency of the suit was manipulated, illegal and carried out at the back of the plaintiffs, and therefore could not divest them of their lawful and settled possession. They further argued that the lower appellate court had rightly relied upon the earlier, long-standing entries in the Jamabandi and Khasra Girdawari, and had correctly set aside the judgment of the trial court which was based solely on stray revenue entries made in favour of the defendant shortly before the filing of the suit.

Findings of This Court

18. Having heard learned counsel for the parties at length and having carefully examined the record of the courts below, this Court does not find any

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ground to interfere with the well-reasoned judgment and decree passed by the learned Lower Appellate Court. The entire controversy revolves around the question of possession, and the lower appellate court has rightly held that the correction of Khasra Girdawari entries in favour of the appellant, made during the pendency of the civil suit, cannot be treated as a reliable foundation to defeat the plaintiffs' long-standing claim of possession. This Court in the case of *Smt. Kesar Devi Vs. Suraj Bhan, RSA-1294-1984, decided on 25.11.1991* has held that correction of khasra girdawari entries during the pendency of the civil suit cannot tilt the balance in favour of the person in whose favour the correction has been ordered. It is settled proposition of law that revenue entries brought into existence after the institution of a civil suit cannot be given precedence over earlier and consistent entries, nor can such post-litem motam corrections create or extinguish rights between the parties. Such entries at best reflect the opinion of the revenue agency for fiscal purposes and cannot displace the judicial determination of actual possession based upon evidence on record.

19. In the present case, the learned lower appellate court has, with due appreciation of the evidence, held that the Jamabandis and Khasra Girdawaris prior to 1987 consistently recorded the plaintiffs/appellants as being in cultivating possession of the suit land. These entries, carrying a statutory presumption of truth, could not be brushed aside merely on the basis of sudden and isolated corrections made in the Khasra Girdawari for the years 1987–88 and 1988–89, particularly when the plaintiffs had already challenged the said correction before the competent revenue authorities. The lower appellate court has further noticed that the defendants did not produce any Jamabandi showing their possession for the last 40 years, despite claiming so. On the contrary, the plaintiffs produced earlier

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Jamabandis (Ex. P-1 to P-5) clearly reflecting their possession throughout. These documents, which are part of the regular revenue record, rightly weighed with the lower appellate court.

20. More importantly, the findings regarding the correctness and genuineness of the earlier entries are pure findings of fact based on the appreciation of oral and documentary evidence. It is well settled that unless such findings are shown to be perverse, contrary to the record or suffering from a substantial error of law, the High Court, in second appeal, cannot re-appreciate evidence merely because another view is possible. No material has been pointed out to show that the lower appellate court ignored any admissible evidence or relied upon any inadmissible evidence. Its conclusion that the corrected entries made during the pendency of the proceedings were tainted, self-serving and not worthy of reliance, is fully justified.

21. This Court finds no merit in the contention that the lower appellate court failed to consider the later Jamabandi of 1990-91. The said Jamabandi itself was prepared after the disputed corrections in Girdawari had taken place and therefore could not outweigh the earlier, long-standing entries which consistently depicted the plaintiffs' possession. The appellate court has assigned cogent reasons for discarding the isolated later entries and placing reliance on the regular record preceding the dispute.

Conclusion

22. In view of the aforesaid discussion, this Court is of the considered view that the learned lower appellate court has returned findings which are neither perverse nor illegal, and are based on a correct and balanced appreciation of

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evidence. No substantial question of law arises for consideration in the present Regular Second Appeal.

23. Accordingly, the present Regular Second Appeal is dismissed, and the judgment and decree of the learned Lower Appellate Court dated 05.05.1993 are upheld.

24. Pending application(s), if any, also stands disposed of.

December 12, 2025
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(MANDEEP PANNU)
JUDGE

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