



RSA-2464-1998 (O&M)

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

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**RSA-2464-1998 (O&M)
Reserved on : 17.09.2025
Pronounced on: 22.09.2025**

Gram Panchayat, Village Matoi

....Appellant

VERSUS

Surjit Singh (deceased) through his LRs and Others

....Respondents

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Parvez Akhtar, Advocate for the appellant.

Mr. P.S.Guliani and Mr. G.S.Beniwal, Advocates
For respondents No.1 to 3, 4, 6 to 10, 13 and 14.

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MANDEEP PANNU,J.

1. This Regular Second Appeal has been filed by the plaintiff-Gram Panchayat, Village Matoi, challenging the judgment and decree dated 4.11.1997 passed by the learned Additional District Judge, Sangrur, whereby the appeal filed by the defendants was accepted and the judgment and decree dated 21.04.1993 passed by the learned trial Court in favour of the plaintiff was reversed.

Brief Facts

2. Briefly stated, the facts of the case are that the plaintiff Gram Panchayat, Village Matoi, through its Sarpanch Amar Singh, instituted the present suit pleading that the suit property is *shamlat dehland* belonging to the Panchayat and it is the owner and in possession thereof, as detailed in the headnote of the

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plaint. It was pleaded that defendant no.1 Bachan Singh (since deceased), defendants no.6 and 7 and one Bhagwant Singh, father of the remaining defendants, purported to have purchased the suit land vide a registered sale deed dated 17.05.1957 from one Dalip Singh, Sarpanch and Harnam Singh, Panch. According to the plaintiff, neither Dalip Singh nor Harnam Singh was authorised by the Gram Panchayat to alienate the suit land and no resolution authorising such transfer was ever passed. The said sale deed was alleged to be illegal, null and void and inoperative against the rights of the plaintiff Panchayat. It was further pleaded that on the basis of the said sale deed, defendants managed to get mutation sanctioned in their favour in collusion with revenue officials and corresponding entries were made in the revenue record. The plaintiff averred that the defendants continued to remain in unlawful possession of the suit land without any right, title or interest and their possession could at best be permissive, being that of trustees or office bearers of the Panchayat. Despite repeated demands to restore possession, the defendants failed to do so, compelling the Panchayat to file the present suit on 15.06.1984 for declaration that the sale deed dated 17.05.1957 and subsequent mutation are void and ineffective and for consequential relief of possession.

3. Upon notice, the defendants appeared and filed joint written statement, controverting the allegations of the plaintiff. It was pleaded that the plaintiff has no concern with the suit land, which was validly purchased by defendant Bachan Singh (since deceased), defendants no.6 and 7 and Bhagwan Singh through the registered sale deed executed by Dalip Singh, former Sarpanch, and Harnam Singh, Panch, and ever since then, the defendants have been in lawful possession. It was asserted that mutation was validly sanctioned in their favour and corresponding entries made in the revenue record. The defendants further claimed



that they had effected improvements on the land. In the alternative, it was pleaded that the defendants being in possession of the suit property since 1957 had perfected their title by way of adverse possession, the possession being continuous, open and hostile to the plaintiff.

4. Replication was filed by the plaintiff, reaffirming the averments made in the plaint and denying those in the written statement.

5. From the pleadings of the parties, the following issues were framed:

(1) Whether the sale dated 17.05.1957 is contrary to facts of law, void and has no effect on the rights of the plaintiff? OPP

(2) Whether the plaintiff is the owner of the suit land? OPP

(3) Whether the defendants have become owners of the suit land by adverse possession? OPD

(4) Whether the defendants have made any improvement in the suit land? If so, to what amount and what effect? OPD

(5) Whether the suit is not maintainable in the present form? OPD

(6) Whether the plaintiff is estopped by his act and conduct from filing the suit? OPD

(7) Whether the suit has been properly filed? OPP.

(8). Relief.

6. The parties went to trial. The plaintiff examined Barkat Ali PW1, Babu Singh PW2 and Amar Singh PW3 and closed its evidence.

7. On the other hand, the defendants examined Amar Singh DW1 and tendered in evidence Ex.D1 to Ex.D14.

8. The learned trial Court, after hearing the parties, initially dismissed the suit. The plaintiff Gram Panchayat filed appeal before the learned Additional



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District Judge, Sangrur, who vide judgment dated 06.01.1992, remanded the case to the trial Court for fresh decision after framing an additional issue on jurisdiction, namely:

“Whether the Civil Court has got no jurisdiction to entertain and try the present suit? OPD.”

9. The case was accordingly remanded with the direction to the lower Court to decide the case afresh after giving an opportunity of leading evidence to both the parties. The appeal was accepted.

Findings of the trial Court

10. On receipt of the case, the learned trial Court, decided the case afresh and vide its judgment and decree dated 21.04.1993, learned trial Court decreed the suit holding that the plaintiff Gram Panchayat is the owner of the suit property and that the sale deed Ex.D1 dated 17.05.1957 and the mutation dated 25.10.1978 are null and void, inoperative and liable to be cancelled and the plaintiff is entitled to recover possession of the suit property and while returning the said findings, the learned trial Court first dealt with the question of jurisdiction and held that the bar under Section 13 of the Punjab Village Common Lands (Regulation) Act, 1961, did not apply to the present controversy, as the dispute was not regarding whether the land was or was not *shamlat deh* but only regarding validity of the sale deed. It was observed that the Collector under Section 11 of the Act is empowered to decide claims relating to vesting or non-vesting of land in the Panchayat, but has no authority to adjudicate on the validity of an alienation effected by unauthorised persons. Relying on case law, including ***Satbir Singh and another v. Dhani Ram and others 1985 PLJ 426***, it was held that the Civil Court had jurisdiction to entertain and decide the present suit.



11. On the issue of limitation, the trial Court held that the cause of action accrued to the plaintiff only on 25.10.1978 when mutation in favour of defendants was sanctioned, as till then the plaintiff continued to be recorded as owner. It was held that the suit filed on 15.06.1984 was within limitation, being covered by Articles 58 and 65 of the Limitation Act, 1963. Reliance on Article 111 of the Limitation Act, 1963 was held misplaced, the suit land being agricultural land.

12. On the merits of the alienation, it was observed that there was no resolution of the Panchayat authorising Dalip Singh and Harnam Singh to execute the sale deed and at the time of execution of Ex.D1, neither was Sarpanch. Further, the 1953 Act and Rules of 1955 did not contemplate sale of *shamlat* land, and only provided for lease by auction, and even under the 1961 Act, sale of *shamlat deh* land required approval of the Director, Panchayats, which was absent in the present case. The trial Court thus held that the sale deed was the result of fraud and misuse of Panchayat property by unauthorised persons, rendering it null and void.

13. On the issue of adverse possession, the trial Court held that possession of the defendants was permissive, through unauthorised alienation, and such permissive possession cannot ripen into ownership unless it is shown to be hostile, open, notorious and to the knowledge of the true owner for the requisite statutory period. It was held that mere continuous possession was insufficient and in the present case the ingredients of adverse possession were not established. The defendants, therefore, could not claim ownership either under Ex.D1 or by adverse possession.

14. Consequently, the suit of the plaintiff Gram Panchayat was decreed by the trial Court on 21.04.1993.

**Findings of the Lower Appellate Court**

15. Feeling aggrieved by the aforesaid judgment and decree passed by the learned trial Court, the defendants preferred an appeal before the learned Additional District Judge, Sangrur. The learned appellate Court, after hearing the arguments of the parties, concurred with the findings of the trial Court on the issue of jurisdiction and held that the jurisdiction of the Civil Court is not barred. However, while dealing with the issues of limitation, adverse possession and validity of the sale deed, the learned appellate Court took a contrary view. It was observed that the Gram Panchayat had knowledge about the possession of the defendants over the suit land. Ex.D3 to D7, which are the copies of the Jamabandis, clearly reveal that the defendants have been recorded in possession of the suit land, shown as *gair marusi*, on account of the sale but without payment of rent. Since the defendants were never paying any rent, they could not be held to be tenants as observed by the trial Court. Their possession being on the basis of the sale deed was hostile and adverse to the Gram Panchayat. Thus, the defendants would be deemed to be in adverse possession of the land in dispute, the same having continued for more than twelve years.

16. The appellate Court agreed that ordinarily a Sarpanch is a trustee and a trustee cannot claim adverse possession against trust property. However, in the instant case, it was not the Sarpanch or Panch of the Gram Panchayat who was asserting adverse possession, but the defendants, who were third parties claiming possession independent of the Panchayat. Accordingly, the appellate Court held that from the evidence available on record, it stood established that the defendants had become owners of the suit land by way of adverse possession.



17. The appellate Court further noticed that Ex.P1 is a resolution dated 11.11.1957 passed by the Gram Panchayat itself, wherein it was resolved that since the Panchayat had come to know of the sale of the suit property, representation should be made to the revenue authorities not to sanction the mutation in favour of the defendants. From this resolution, it was evident that the Gram Panchayat had knowledge of the possession of the defendants over the land right from the year 1957. Since the defendants had remained in uninterrupted possession of the suit land thereafter, they had perfected their title by adverse possession. Consequently, the learned Additional District Judge, Sangrur, came to the conclusion that the plaintiff's suit was barred by limitation, and accordingly allowed the appeal and set aside the judgment and decree dated 21.04.1993 passed by the learned trial Court.

18. On the question of execution of the sale deed, the appellate Court noticed that its execution stood proved from the evidence led by the defendants. The sale deed dated 17.05.1957 was executed by Sarpanch Dalip Singh and Panch Harnam Singh in favour of the defendants. However, no resolution was brought on record to show that they had been authorised by the Gram Panchayat to transfer the land in dispute. The findings of the trial Court on this point were affirmed. Nonetheless, it was held that it was the case of the plaintiff Gram Panchayat itself that the defendants were in illegal possession of the land in dispute ever since the alleged sale and that they were asserting hostile possession. This fact also stood corroborated from the revenue record, as evidenced by the Jamabandis Ex. D3 to D7, which consistently recorded the possession of the defendants over the suit property since 1957.

19. Feeling aggrieved by the judgment passed by the lower appellate Court, the appellant-plaintiff has filed the present Regular Second Appeal.



20. Upon notice, respondents appeared and contested the appeal.

Submissions of learned counsel for the appellant

21. Learned counsel for the appellant submitted that the Gram Panchayat is legally entitled to take possession of the suit land by filing the present suit as the suit land is owned by them and the same can only be transferred in accordance with the Rules prescribed under the Act.

22. The learned counsel further submits that the limitation for filing the suit is 30 years from the date of alleged sale and as such the suit was within limitation. The onus with regard to adverse possession is upon the defendants and they have failed to prove on the file, the date of their hostile possession towards the Gram Panchayat.

23. The learned counsel for the appellant emphasises that the defendants in their written statement have nowhere pleaded the date of the hostile and open possession against the true owner and their possession on the basis of the alleged sale deed cannot be termed as adverse possession in the eyes of law. The counsel also submits that the defendants have not led any evidence on the file about the date of their hostile and adverse possession towards the Gram Panchayat. The defendants have entered upon the suit land on the basis of the alleged sale deed dated 17.05.1957 and thereby their possession cannot be termed as on adverse possession.

Submissions of learned counsel for the respondents

24. The learned counsel for the respondents has argued that previously, this suit land was owned and possessed by the Gram Panchayat, which was transferred by Dalip Singh and Harnam Singh in favour of respondents by executing a valid registered sale deed dated 17.05.1957 and mutation was



sanctioned in their favour on 25.10.1978. Since the date of execution of sale deed the respondents are in continuous and peaceful possession of the suit land and as such this sale deed is genuine one.

25. Learned counsel further contended that the defendants are proved to be in adverse possession of the suit land and have become owners of the same. He further contended that the findings of the learned lower appellate Court to this effect are legal.

26. Learned counsel further argued that the suit of the plaintiff is hit by the provisions of Section 13 of the Punjab Village Common Lands (Regulation) Act. The counsel states that according to the above-mentioned act, it is not the Civil Court to determine the question with regard to nature of suit property but the power is vested with the Collector, as provided under Sections 7 and 11 of the Act.

27. Learned counsel for the respondents has strongly argued that the suit is for possession of immovable property on the basis of title and the same should have been filed within 12 years from the date of the adverse possession of the defendants. In support of the same, the counsel has referred to Article 65 of the Limitation Act, 1963 and reiterated that the suit should have been filed before 11.11.1969 and not afterword and it is thereby time-barred.

Findings on Jurisdiction

28. At the outset, it may be noticed that the question of jurisdiction has been concurrently decided by both the Courts below in favour of the plaintiff-Gram Panchayat, and it stands concluded that the Civil Court is competent to try the present suit. That finding is not under challenge before this Court and does not call for further interference.

**Findings on the Sale Deed (Ex. D-1)**

29. The evidence on record establishes that a registered instrument dated 17.05.1957 (Ex. D-1) was executed by Dalip Singh and Harnam Singh in favour of the defendants and that the execution of that document has been proved by the defendants. The proof of execution, however, is one thing and the legal effect of the instrument is another. The statutory scheme governing shamlat (village common) lands did not permit unfettered alienation by private office-bearers of the Panchayat and the alienation of common land was to be governed by the statutory rules and, where required by the rules, by prior resolutions and official sanctions. Admittedly, there is no resolution of the Gram Panchayat authorising Dalip Singh or Harnam Singh to effect sale of the shamlat land has been produced, nor has any requisite statutory approval been shown. For these reasons the instrument Ex. D-1 cannot be regarded as a valid conveyance of the proprietary rights of the Panchayat and must be held to be unauthorised and void insofar as it purports to transfer title away from the Gram Panchayat.

Findings on Limitation — accrual of cause of action and its consequence

30. A suit for possession founded on title is governed by the statutory period applicable to suits for possession (Article 65 of the Limitation Act — twelve years). The date from which limitation runs is the date when the true owner's right to seek relief crystallises as a consequence of the adverse acts of the occupier and, importantly, when the owner has or must be taken to have had notice of the adverse character of the possession. Ex.P-1 dated 11.11.1957 establishes that the Gram Panchayat had knowledge of the sale and of the defendants' assertion of possession in 1957. That contemporaneous internal resolution cannot be ignored. It shows that the Panchayat knew of the transaction and of the occupiers' claim long



before the mutation of 25.10.1978. Knowledge of the defendants' assertive possession in 1957 is sufficient to start the running of the statutory period in respect of a title-based claim.

31. Counting from 1957, more than the statutory period had elapsed before the institution of the suit in 1984. The later sanction of mutation in 1978 is material as further corroboration of possession, but it does not postpone the accrual of cause of action when the owner was already on notice in 1957. Where a true owner, having notice of adverse possession, refrains from timely action, the law treats the delay as fatal to the remedy; equitable considerations do not revive a stale claim where the statutory requirements for adverse possession are satisfied. Consequently, the plaintiff's suit filed in 1984 is barred by limitation.

Findings on Adverse Possession

32. The execution of the deed and the defendants' assertion of title under it are the factual genesis of the possession they thereafter asserted. In short, Ex.D-1 explains why the defendants came into possession and why they styled their possession as ownership. The document therefore has evidentiary significance in proving the character and origin of the possession, even though it is legally ineffective to convey the Panchayat's title.

33. Adverse possession requires possession which is actual, open, continuous, exclusive and hostile to the true owner for the statutory period. The Court must look at the totality of facts to determine whether the occupier's possession had the requisite hostile character from the outset or at some identifiable point thereafter. From the evidence on record, essential elements of adverse possession are made out. The jamabandis and revenue entries (Ex.D-3 to D-7) consistently record the defendants in possession of the suit land as *gair*



marusi; mutation in favour of defendants was ultimately sanctioned and reflected in the revenue record Ex.D-2. The Gram Panchayat's own minutes i.e. Ex.P-1 dated 11.11.1957 demonstrate that the Panchayat had knowledge of the sale and the defendants' occupation even in 1957. The resolution records the Panchayat's awareness and its intention to represent to the revenue authorities, which is evidence of prior notice. Further, the defendants did not content themselves with mere passive occupation. They asserted ownership under a registered deed, procured mutation, and carried out acts of possession which were open and notorious. Where a party enters and holds under a claimed title in the present case on Ex.D-1 and treats the land as its own then securing entries in the revenue record, maintaining exclusive control, and undertaking acts consistent with ownership is the conduct which is indicative of hostile possession rather than permissive occupancy.

34. The protest of Gram Panchayat on Ex.P-1 resolution, is consistent with notice but does not negate the hostile character of the possession of defendants as knowledge of the fact of possession and of the alleged sale can coexist with protest. The legal effect of such knowledge is that, once the Panchayat had notice and nevertheless did not, within a reasonable period, disturb the holding, the running of limitation in respect of possession begins. On the facts here, the possession claimed by the defendants is not shown to have been permissive, nor is there credible evidence that the Panchayat consistently treated their occupation as gratuitous on the contrary, the revenue records and the conduct of the defendants point to a possessory regime hostile to the claim of the Panchayat.



35. The central reasoning adopted by the lower appellate Court in dismissing the suit of the Gram Panchayat is that the defendants have perfected their title by way of adverse possession and that the suit is barred by limitation. The appellate Court relied upon Ex. P-1, a resolution dated 11.11.1957, to hold that the Gram Panchayat had knowledge of the defendants' possession over the suit land ever since 1957. It also placed reliance on the jamabandi entries, Ex. D-3 to D-7, to conclude that the defendants were shown in possession of the land as *gair marusi* and that since no rent was paid, they could not be treated as tenants. On this reasoning, it was inferred that the possession of the defendants was adverse from the very inception, and having continued for more than twelve years, they had become owners of the suit land. There is no infirmity or illegality in the findings of the learned lower Appellate Court.

Conclusion

36. With these observations, the impugned judgment and decree dated 04.11.1997 of the learned lower Appellate Court is hereby affirmed and the present Regular Second Appeal is dismissed.

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

September 22, 2025
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(MANDEEP PANNU)
JUDGE

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