



RSA-540-1998 (O&M)

-1-

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

-.-

**RSA-540-1998 (O&M)
Reserved on:-22.09.2025
Date of Decision : 23.09.2025**

Sukhbir Singh (since deceased) through LRs

.....Appellant

versus

Raja Ram and Others

..... Respondents

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Rajinder Goel, Advocate for the appellant.

Name of respondent No.1 is deleted from the array of parties
Vide order dated 15.01.1999.

Mr. Gurdial Singh Jaswal, Advocate with
Mr. Buta Singh, Advocate for respondent Nos. 2 to 4.

-.-

MANDEEP PANNU, J.

1. This Regular Second Appeal arises out of the judgment and decree dated 22.12.1997 passed by the Additional District Judge, Jagadhri which reversed the judgment and decree dated 19.04.1995 passed by the learned Sub Judge, Ist Class, Jagadhri. Vide judgment and decree dated 19.04.1995, the trial Court decreed the suit in favour of the plaintiff Sukhbir Singh. Vide impugned judgment and decree dated 22.12.1997 the learned Additional District Judge, Jagadhri set aside that decree and dismissed the suit of the plaintiff.

Brief Facts

2. The plaintiff Sukhbir Singh instituted a suit for permanent injunction restraining the defendants from interfering in the actual physical possession of the

**RSA-540-1998 (O&M)****-2-**

plaintiff and from cutting and removing the suger-cane and rice crops over the land measuring 7 Kanals 11 marlas, bearing khewat No.95, Khatauni No.155, Khasra Nos.71/11 situated in the revenue of Village Deodhar, HB No.72, Tehsil Jagadhri, as per jamabandi for the year 1982-83. Further with the prayer for restraining the defendants from taking the possession of the suit land forcibly from the plaintiff. The case of the plaintiff in the suit was that he was in cultivating possession of the suit land from the last 15 years as tenant Gair Marusi and had been paying the Batai to the landlord regularly. It was further alleged that the land of the defendants was also situated adjoining to the suit property and defendants, claiming that they have been allotted the suit land by the State Government from the Surplus pool, had been threatening the plaintiff to forcibly dispossess him from the suit land and to cut the crops from the same.

3. Upon notice, the defendants filed their written statement and denied the plaintiff's possession and relied upon allotment/award showing that the land was declared surplus and allotted to them. They further stated that Halqa Patwari by mistake had entered the name of the plaintiff over the suit land out of the total land measuring 53 kanals 12 marlas and the same fact was revealed when they came to know about the present suit and the plaintiff has no right, title or interest in the suit land as they had sown their crops in the suit land and harvested the same.

4. Replication was filed by the plaintiff reiterating the facts.

5. From the pleadings of the parties, following issues have been framed:-

1. Whether the plaintiff is in cultivating possession of the suit land as tenant? (OPP)
2. Whether the suit is not maintainable as alleged? (OPD)
3. Whether the plaintiff has no locus standi to file this suit? (OPD)



RSA-540-1998 (O&M)

-3-

4. Whether defendant is entitled to special costs under Section 35-A CPC? (OPD)
5. Relief.
6. The plaintiff examined himself as PW-1 and called Ajaib Singh as PW-2. The plaintiff relied principally upon following revenue documents:-
 - i) Ex. P1: Copy of Jamabandi for the year 1982–83,
 - ii) Ex. P2: Khasra Girdawari for crops (covering rabi 1983 to rabi 1988),
 - iii) Ex. P3: Copy of Jamabandi for the year 1987–88,
 - iv) Ex. P4, P5, P6: Subsequent copies of Khasra Girdawari / Jamabandi up to 1992–93,
 - v) Ex. P7: Copy of Khasra Girdawari dated 25.3.1994.
7. The defendants examined DW-1 Rattan Singh and DW-2 Om Prakash and placed on record Ex. D1, which is the allotment/award document and other revenue material showing that the land in dispute was declared surplus and allotted to Raja Ram (and others), and which, according to defendants, demonstrates title/allotment and their possession.

Findings of the trial Court

8. The learned trial court after appreciating the revenue record and the oral evidence held that the entries in the Jamabandi and the Khasra Girdawari Ex. P1–P7 consistently show plaintiff in cultivation and possession and the defendants have not produced any material to show that they were in actual possession prior to suit. The plaintiff had been cultivating the land for more than fifteen years and paying batai. The plaintiff's possession was thus established and the suit was

**RSA-540-1998 (O&M)**

-4-

decreed restraining the defendants from dispossessing the plaintiff or cutting/removing his crops except by due course of law.

Findings of the lower appellate court

9. The learned Additional District Judge, in the impugned judgment dated 22.12.1997, reversed the judgement and decree of learned trial court. The lower appellate court relied *inter alia* upon Ex.D1 and the state allotment entries which, it concluded, show that the land had been declared surplus and allotted to the defendants and the defendants belonged to 'A' category of tenants entitled to allotment and had paid installments and therefore had become owners in possession. The appellate court also noted alleged deficiencies in the plaintiff's oral testimony. Particular reliance was placed on the fact that the plaintiff in his evidence had not mentioned the alleged cutting of his crop on certain occasions and on the paucity of independent witnesses to support his case. On the material before it the appellate court concluded that the presumption in favour of revenue entries was rebutted and that the plaintiff had failed to prove his possession and accordingly the trial court judgement and decree was set aside.

Submissions of learned counsel for the parties

10. Feeling aggrieved, the appellant challenges the impugned judgment on multiple grounds including that the learned Additional District Judge misdirected himself in law in treating Ex. D1 and the allotment entries as conclusive proof of dispossession and ownership so as to displace the presumption attaching to the plaintiff's continuous revenue entries. The appellate court did not properly appreciate the close and contemporaneous revenue documents produced by the plaintiff as Ex.P1–P7 and erred in placing decisive reliance on the allotment document without canvassing whether defendants proved continuous possession.

**RSA-540-1998 (O&M)****-5-**

Even if land was allotted to the defendants, a suit for permanent injunction concerns possession and not the adjudication of title. The plaintiff's evidence of continued cultivation, supported by revenue entries, suffices to maintain relief unless the defendants prove dispossession by due process.

11. Learned counsel for the appellant has emphasized that the plaintiff produced best evidence in the form of continuous entries in Jamabandi and Khasra Girdawari for the years 1982–83 through 1994 and that these documents are public documents which attract a presumption of truth under the revenue law. It was submitted that the presumption is rebuttable only by cogent evidence of contrary fact establishing that entries are false or that there was actual dispossession prior to the suit. Learned counsel stressed that cutting of crop on a specific date does not ipso facto prove dispossession and that the appellate court wrongly equated the plaintiff's alleged failure to remember certain dates with absence of possession. Learned counsel further urged that the appellate court committed procedural error in considering additional material without hearing or without passing reasoned orders on objections.

12. Learned counsel for the respondents argued before this Court that Ex. D1 is a public record of allotment which shows that the land in dispute had been declared surplus and allotted to the respondents well before the institution of the suit that the respondents paid installments and were thus owners in possession and the plaintiff's entries in revenue record were borne out of mistake by the patwari and the oral evidence of plaintiff suffers from contradictions and that the lower appellate court rightly found that the presumption of correctness attached to the revenue entries stood rebutted.

**Findings**

13. I have considered the entire record, the revenue documents, the evidence-on-record, the reasons recorded by the two courts below and the submissions advanced by both the learned counsel.

14. It is well-settled that entries in revenue records and entries in the Jamabandi attract a presumption of correctness. That presumption is, however, rebuttable. The relevant question for the court in a suit for injunction is whether the party who relies on the entries has proved possession by such entries and supporting evidence, and whether the other party has produced cogent material to displace that presumption by showing that the entries are erroneous or that actual possession was of the other party for the relevant period. In the present case the plaintiff produced contemporaneous revenue entries, namely Ex.s P1–P7, covering a sequence of years from 1982–83 through 1994. Those documents are not solitary disconnected entries. The Khasra Girdawari and successive entries show cultivation entries in favour of the plaintiff. In a suit for protection of possession these contemporaneous, recurring public documents are of high evidentiary value. So far as Ex. D1 is concerned, it shows allotment from the surplus pool in favour of the respondents. An allotment document is a relevant piece of evidence. Its existence, however, does not automatically or mechanically displace the other party's established factual possession shown by continuous entries and by actual cultivation. What is required is proof of actual dispossession and of uninterrupted possession by the allottee. Mere production of allotment-paper does not prove that the allottee had entered into and continued in possession in exclusion of the plaintiff at all material times. The finding of the lower appellate court, that the allotment conclusively established the possession of respondent, overlooks this

**RSA-540-1998 (O&M)****-7-**

point. On the appellant's oral testimony and contradictions, the appellate court relied on certain lacunae in PW-1's testimony, including omission to mention certain specific acts of cutting of crops at particular dates. Such omissions may be relevant but they must be seen in the context of the whole case. The plaintiff produced an independent witness (PW-2), revenue documents and contiguous entries. The fact that a witness may have forgotten precise dates does not necessarily overturn a continuing possession shown in the public record. The lower appellate court appears to have weighed the omissions disproportionately and, in doing so, substituted its assessment for an overall appraisal of documentary and oral evidence.

15. Coming to the crucial question whether respondent has been able to rebut presumption or not, on the record before the court, the respondents have produced Ex. D1 but have not shown uninterrupted, exclusive possession over the suit land in the face of the long series of entries produced by the plaintiff. The allotment entry, standing alone and not coupled with proof of dispossession, is insufficient to displace the consistent entries in the Jamabandi and the Khasra Girdawari which point to cultivation and possession of plaintiff. Further the appellate court failed to explain how Ex. D1 cured the deficiencies it found in plaintiff's oral evidence and produced positive proof of dispossession. In these circumstances the presumption in favour of the revenue entries relied upon by the plaintiff remains un rebutted.

16. It was also noticed by the learned appellate court that during the pendency of the suit, status quo was ordered by the trial court. The plaintiff thereafter moved an application under Order 39 Rule 2-A CPC alleging that the defendants had violated the order and cut the standing crop. The lower appellate



court has referred to this circumstance and observed that while appearing in the witness box the plaintiff did not mention the cutting of crops, and therefore drew an inference adverse to his case. In the considered opinion of this Court, such omission is not fatal to the plaintiff's claim. Even if the standing crop was cut during the pendency of the proceedings, that act by itself would not establish that the plaintiff was dispossessed of the land. Possession of immovable property cannot be equated with removal of a single crop, nor does the omission of the plaintiff in his testimony on that point by itself discredit the consistent chain of revenue entries relied upon by him. The crucial question is who was in cultivating possession of the land, and the plaintiff's evidence on that score, supported by the revenue record, remains unshaken.

17. The lower appellate court has further referred to Ex. D1 and observed that the defendants were shown as "A-class tenants" or permissible tenants, and on that basis concluded that they must have been in possession of the suit land even prior to allotment. That inference, however, does not correctly reflect the legal position. The expression "permissible tenant" or "A-class tenant" under the surplus land/allotment scheme refers to the category of tenants who are eligible under the statute or scheme to receive allotment from the surplus pool, and it does not by itself mean that they were in actual physical possession of the specific parcel of land which is subsequently allotted to them. The concept is one of entitlement and preference, not of factual possession. Actual possession still has to be established on the evidence on record. Thus, merely because the defendants were eligible tenants falling in the category of permissible tenants does not lead to the conclusion that they were already cultivating the suit land in exclusion of the plaintiff. Unless there is cogent proof that they had taken over physical possession



RSA-540-1998 (O&M)

-9-

prior to the institution of the suit, the presumption attached to the plaintiff's continuous revenue entries cannot be displaced by invoking the label of "permissible tenants."

18. Coming to the next argument, the respondents have relied upon the decision in *Tehsildar, Urban Improvement Trust v. Ganga Bai Menariya (2024) (1) Law Herald SC 356*, where it was observed that a suit simpliciter for injunction may not be maintainable when the title of the plaintiff is disputed by the defendant. By relying upon that judgment learned counsel for the respondents seeks to argue that the present suit for injunction is not maintainable. That submission is misplaced. The authority relied upon is distinguishable because, on the record of the present case, the plaintiff does not seek any declaration of title and the core question in controversy is possession. The fact that the land may have been allotted in revenue records does not, without more, displace the plaintiff's documentary and factual case of continuous cultivation and possession. In short, the precedent does not govern the specific facts of this litigation.

Conclusion

19. Having considered the record and the rival submissions, I am of the view that the appeal deserves to be allowed. The Regular Second Appeal is accordingly allowed. The judgment and decree dated 22.12.1997 passed by the Additional District Judge, Jagadhri are set aside and the judgment and decree dated 19.04.1995 passed by the learned Sub Judge, Ist Class, Jagadhri are restored.

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

September 23, 2025
tripti

(MANDEEP PANNU)
JUDGE

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