



RSA-1371-2025 (O&M)

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

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**RSA-1371-2025 (O&M)
Reserved on:-14.10.2025
Date of Decision : 27.10.2025**

Sahib Singh and Another

....Appellants

VERSUS

Malika Arora and Others

....Respondents

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Vipin Mahajan, Advocate and
Ms. Gagan Bir Kaur, Advocate for the appellants.

Ms. Meena Bansal, Advocate
for contesting respondents No.1 to 4.

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MANDEEP PANNU, J.

1. The present Regular Second Appeal has been filed by the appellants—defendants, Sahib Singh and another, against the concurrent findings recorded by both the Courts below whereby the suit filed by the plaintiffs—respondents, Mallika Arora and others, who are the legal representatives of late Tejpal Singh, has been decreed for possession and permanent injunction in respect of the property in dispute.

2. The plaintiffs—respondents, who are the widow and children of late Tejpal Singh, filed a suit for possession of plot and house measuring three kanals, bearing Khasra No. 12R/16/1 (3–0), Khewat No. 469 and Khatauni No. 578/1, as per Jamabandi for the year 2008–2009, situated in village Faizpura, Tehsil Batala,

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District Gurdaspur, along with consequential relief of permanent injunction restraining the defendants from constructing or changing the nature of the suit property illegally, forcibly, and without due course of law.

Brief Facts

3. Briefly stated, the case of the plaintiffs is that Tejpal Singh, husband of plaintiff No.1 and father of plaintiffs No.2 to 4, was the owner of the suit property as per the revenue record. Tejpal Singh had purchased the said land from Mohan Singh, son of Natha Singh, vide registered sale deed dated 15.05.1974 for a consideration of ₹13,800/–, and obtained physical possession thereof at the time of execution of the sale deed. Mutation No.4102 dated 05.11.1997 was duly sanctioned in his favour. The name of Tejpal Singh was also entered in the Jamabandi as owner in possession by the revenue authorities on the basis of the said mutation. Since the date of purchase, Tejpal Singh remained in ownership and possession of the suit land. He was residing in Bombay but had constructed two rooms, one kitchen, and one bathroom on the suit property, besides planting small plants and maintaining a kitchen garden in part of it. Whenever he visited Batala, he used to reside in his property. The defendants have no right, title, or interest in the suit land.

4. It is further pleaded that in the year 1994, the defendants tried to take possession of the property illegally and forcibly, but were unsuccessful. Thereafter, defendant Sahib Singh filed a false civil suit for permanent injunction against Tejpal Singh before the Court of Sub Judge Ist Class, Batala, which was titled '*Sahib Singh v. Tejpal Singh*', only to harass Tejpal Singh and grab the property.

That suit was dismissed as withdrawn on 08.06.1994. Subsequently, the same

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defendant again filed another suit for permanent injunction on 18.07.1994 before the Civil Court, Batala, which too was dismissed by the Court of Shri Amarjit Singh Kataria, PCS, Civil Judge (Junior Division), Batala, vide judgment dated 18.01.1997, holding that Sahib Singh was not entitled to the relief of injunction as he was not in possession. The appeal filed by Sahib Singh was dismissed by the learned Additional District Judge, Gurdaspur, vide judgment dated 28.10.1999. Thereafter, Sahib Singh filed Regular Second Appeal No. 3048 of 2000 before this Court by concealing material facts and, though not in possession, managed to obtain an interim order dated 02.09.2003, whereby he was restrained from being dispossessed “except in due course of law.” That appeal is still pending before this Court.

5. It is further submitted that Tejpal Singh himself had earlier filed Civil Suit No. 383 dated 02.07.1994 titled “*Tejpal Singh v. Mohan Singh*”, for declaration before the Civil Court, Batala, which was decreed in his favour. Subsequently, Sahib Singh filed another Civil Suit No. 552 dated 26.11.1994 titled “*Sahib Singh v. Tejpal Singh and others*” for declaration, which was decreed ex parte at the back of Tejpal Singh. However, even during that period, the defendants neither acquired possession nor had any right or title over the suit property. The plaintiffs, being permanent residents of Bombay, submitted that the defendants were fully aware of their absence. After the death of Tejpal Singh on 05.08.2014, when the plaintiffs came to Batala in January 2015, they were shocked to find that the defendants had taken illegal possession of the property about a month earlier. Despite requests to vacate, the defendants refused, compelling the plaintiffs to file the present suit on 28.04.2015.

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6. Upon notice, the defendants appeared and filed a written statement raising preliminary objections regarding maintainability, lack of locus standi, concealment of facts, and pendency of litigation before this Court. It was also alleged that plaintiff No.4 had moved a complaint against defendant No.2 regarding the same property. It was pleaded that the revenue record shows the name of Sahib Singh as *Gair Marusi* due to continuous possession since 1994, and that his possession has become adverse to that of the plaintiffs. On merits, it was denied that Tejpal Singh was the owner as alleged. The defendants claimed ownership and possession by virtue of long and continuous occupation. It was further averred that Tejpal Singh had received ₹20,000/- from defendant Sahib Singh as sale consideration, as disclosed by the defendant in his statement recorded in the earlier litigation titled “*Sahib Singh v. Tejpal Singh*” on 05.05.1996. However, no written receipt was available.

7. The defendants denied that Mohan Singh was the owner in possession, or that any valid sale deed was executed in favour of Tejpal Singh. The mutation No.4102 dated 05.11.1997 and the subsequent entries in the Jamabandi were stated to be wrong, void, and not binding upon their rights. The possession of Tejpal Singh over the suit property was specifically denied. It was further stated that the defendants had been in continuous, open, and hostile possession since 1994, and by virtue of adverse possession, had become owners thereof. It was also pleaded that their names in the revenue record were correctly reflected, and that they were in possession as *Gair Marusi* occupants.

8. Replication, reiterating the contents of the complaints, was also filed by the plaintiffs.



9. From the pleadings of the parties, the learned trial Court framed the following issues for determination:

1. Whether the plaintiffs are entitled to the relief of possession as prayed for? OPP
2. Whether the defendants intend to make construction or to change the nature of the suit property? OPP
3. Whether the suit is not maintainable in the present form? OPD
4. Whether the plaintiffs have not come to the Court with clean hands? OPD
5. Whether the plaintiffs have got no locus standi to file the present suit? OPD
6. Whether the defendants have become owners of the suit property by way of adverse possession over the same? OPD
7. Relief.

10. Both the parties led oral as well as documentary evidence in support of their respective claims.

11. The plaintiffs produced the following documents on record:

General Power of Attorney (Ex. P1);

Death Certificate of Tejpal Singh (Ex. P2);

Identity proofs of the plaintiffs (Ex. P3 to P6);

Sale Deed dated 15.05.1974 (Ex. P7);

Mutation No. 4102 (Ex. P8);

Jamabandis for the years 1998–1999, 2003–2004, and 2008–2009

(Ex. P9 to Ex. P11);



Khasra Girdawari and site plan (Ex. P12 and Ex. P13);

Copy of Judgment dated 18.01.1997 (Ex. P14);

Appellate judgment dated 28.10.1999 (Ex. P15);

Copy of Regular Second Appeal filed by Sahib Singh (Ex. P16);

Order dated 09.03.2015 regarding impleadment of legal representatives of Tejpal Singh (Ex. P17);

Judgment in Civil Suit No. 383 dated 02.07.1994 titled Tejpal Singh v. Mohan Singh (Ex. P18); and

Judgment in Civil Suit No. 552 dated 26.11.1994 (Ex. P19).

12. On the other hand, the defendants examined witnesses and produced the following documents:

Certified copy of plaint (Ex. D2);

Certified copy of written statement (Ex. D3);

Certified copy of cross-examination of Sahib Singh (Ex. D4);

Certified copy of order of this Court (Ex. D5);

Certified copies of Jamabandis (Ex. D6 to D8);

Certified copies of Khasra Girdawari (Ex. D9 to D11);

Electricity bills (Ex. D12 and D13);

Photocopies of receipts of electricity bills (Mark A and Mark B);

Certified copy of electricity connection documents (Ex. D14);

Certified copies of judgments and decrees dated 25.10.1999 and 18.01.1997 (Ex. D15 to D18);

Certified copy of order of Civil Court, Batala (Ex. D19); and

Attested copy of complaint (Ex. D20).

**Findings of the Trial Court**

13. The learned trial Court observed that the onus to prove ownership and entitlement to possession was upon the plaintiffs, which they successfully discharged by producing the certified copy of the registered sale deed dated 15.04.1974 (Ex. P7) executed in favour of Tejpal Singh by Mohan Singh. The registration of this document was proved on record through PW-3 Paramjeet Kaur, and the Court had earlier permitted the plaintiffs to lead secondary evidence regarding the same vide order dated 18.01.2017. It was noticed that, although the defendants denied the ownership of Tejpal Singh in their written statement, the revenue record (Ex. D6 to Ex. D11) clearly reflected the name of Tejpal Singh in the column of ownership.

14. With regard to the plea of adverse possession raised by the defendants, the Court held that such a plea can be taken only as a defence and must be specifically proved by cogent evidence. The defendants relied upon the interim order of this Court (Ex.D5) passed in the earlier litigation, wherein it was mentioned that the present defendant shall not be dispossessed from the property in dispute except in due course of law. The Court observed that this order did not confer ownership and merely preserved possession subject to law. The plaintiffs, being the legal heirs of Tejpal Singh who died on 05.08.2014, had acquired cause of action to institute the present suit after his death and had, by filing the same, availed the due legal recourse available to them.

15. The Court further explained that for a claim of adverse possession to succeed, possession must be actual, open, uninterrupted, hostile, exclusive, and under a claim of right for the statutory period. Any deficiency in these elements



prevents possession from ripening into ownership. The defendants were held to have failed to establish that their possession was hostile to the true owner. It was found that though the defendants were in possession, such possession was not adverse and remained subordinate to the ownership of Tejpal Singh. No overt act or declaration denying the title of the true owner was proved.

16. Referring to judicial precedents, including *Bhim Singh and others v. Zile Singh and others* [2006(3) RCR (Civil) 97]; *Karnataka Board of Wakf v. Government of India and others* [2004(2) RCR (Civil) 702 (SC)]; and *Hemaji Waghaji Jat v. Bhikhabhai Khengarbhai Harijan* [2008(4) RCR (Civil) 401], the trial Court reiterated that mere long possession does not constitute adverse possession unless it is hostile, open, and to the knowledge of the true owner. It was emphasized that the law does not intend to reward a trespasser or a person who takes clandestine possession in contravention of law. Possession obtained unlawfully cannot ripen into ownership merely with the passage of time.

17. The trial Court noted from the cross-examination of PW-1 that the property in dispute was situated in a residential area and described as a “Bungalow.” The defendants’ queries regarding the market value of the property indicated their reluctance to vacate despite the appreciation in property prices. The Court found from the testimony of DW-2 that even the defence witness had admitted that Tejpal Singh was the owner of the property as per the revenue record. The defendants’ claim of ownership was unsupported by any corroborative or reliable evidence, and their assertions were found to be false and frivolous.

18. It was also recorded that the defendants had taken inconsistent stands, on one hand alleging purchase of the property by payment of ₹20,000/- to Tejpal



Singh, and on the other hand claiming ownership by way of adverse possession. Such contradictory pleas could not coexist. No documentary proof or receipt was produced regarding the alleged payment, and oral statements alone were held insufficient. The earlier suits filed between the parties in 1994 and thereafter, and the pendency of RSA No. 3048 of 2000 before the High Court, were duly noticed. The Court held that despite such prolonged litigation, the claim of ownership by the defendants had never been recognized or acceded to by Tejpal Singh or his legal heirs. Accordingly, the plea of adverse possession was rejected.

19. It was further held that the present suit itself operated as sufficient notice to the defendants to vacate the suit property. The site plan (Ex.P13) was relied upon only for identification of the property, and the defendants had not disputed its identity. The counter site plan filed by the defendants was held to be of no significance as ownership of Tejpal Singh stood proved through documentary and oral evidence.

20. In light of these findings, the Court concluded that the plaintiffs had proved their ownership and entitlement to possession, while the defendants had failed to substantiate any right, title, or claim of adverse possession. The plaintiffs were also held entitled to protection against illegal construction or alteration of the property by the defendants. The suit was accordingly decreed with costs. The defendants were directed to vacate the suit property within two months, failing which the plaintiffs could have it vacated through due process of law. The defendants were permanently restrained from raising any construction or changing the nature of the suit property illegally or without due course of law.

**Findings of the Lower Appellate Court**

21. The learned lower appellate Court recorded that the case of the appellants/defendants was based on the denial of the ownership of Tejpal Singh. It was contended by the appellants that they had been in possession of the suit property since 1994 and had become owners by way of adverse possession. They also alleged that Tejpal Singh had received ₹20,000/- from the appellants as price for the property, although no receipt or document was produced in proof thereof. The possession of Tejpal Singh was denied, and the appellants maintained that they were in uninterrupted possession of the property since 1994.

22. The Court noticed that the respondents/plaintiffs are the legal representatives of deceased Tejpal Singh and were relying upon their ownership on the basis of the sale deed dated 15.05.1975. The appellate Court referred to the deposition of DW-2 Jarnail Singh, son of appellant Sahib Singh, who admitted that Tejpal Singh had purchased the suit property from Mohan Singh vide sale deed dated 15.05.1974 for ₹13,800/-, and that mutation No. 4102 dated 05.11.1997 had been sanctioned in the name of Tejpal Singh. The witness also admitted that the litigation regarding the suit property had been continuing between Sahib Singh and Tejpal Singh since 1994, and that Tejpal Singh had died on 05.08.2014. He further acknowledged that the land was shown in the Jamabandi of 2003-2004, 2008-2009 and 2013-2014 in the name of Tejpal Singh. Even PW-3 from the DC Office, Gurdaspur proved the sale deed dated 15.05.1974 executed in favour of Tejpal Singh. Thus, essential facts regarding ownership stood established through the testimony of both sides.



23. The appellate Court observed that in order to counter the ownership of Tejpal Singh, the appellants had relied on a plea of adverse possession as well as on an alleged payment of ₹20,000/-, but both pleas were self-contradictory and self-destructive. A person who claims to have purchased a property cannot simultaneously assert ownership by adverse possession in the absence of any sale deed.

24. The Court held that adverse possession always operates against the true owner and therefore, raising such a plea amounted to an admission that the plaintiffs were owners. It further observed that the appellants had not pleaded the date or point of time when their possession allegedly became hostile so as to commence the period of prescription. The possession necessary to ripen into ownership by adverse possession must be hostile, open, and to the knowledge of the true owner, but no such evidence had been led. Mere long possession without any act of hostility could not confer ownership.

25. The appellate Court also noticed the previous litigation between the parties. It recorded that the appellants/defendants had earlier filed a civil suit against Tejpal Singh in 1994, which was decided in 1997, wherein it was held that Sahib Singh had trespassed into the suit property taking advantage of the absence of Tejpal Singh, who was residing in Mumbai. The appeal against that judgment had also been dismissed. This showed that the possession of the appellants was unauthorized from the beginning.

26. It was further observed that the appellants had not disclosed the capacity in which they entered into possession of the property, nor could their possession be said to be peaceful or uninterrupted when the parties were in



continuous litigation. Consequently, the essential ingredients of adverse possession, open, hostile, and exclusive possession for the statutory period, were entirely lacking. The appellate Court held that there was no basis to treat such possession as adverse or as having culminated in ownership.

27. The Court also rejected the contention that the plaintiffs' suit was barred by limitation. It was held that no equity lies in favour of a person who claims ownership by denying the title of another, and that the law of adverse possession, which deprives an owner merely for inaction, is irrational and disproportionate. The Court referred to the decisions of the Hon'ble Supreme Court in *Hemaji Waghaji Jat v. Bhikhabhai Khengarbhai Harijan and others* (2009) 16 SCC 517, and *Jhandu (dead) through L.Rs. v. Moli* 1997(3) RCR (Civil) 166, as well as to *Tej Narain and another v. Shanti Swaroop Bohre and another* 2015(1) CCC 478, to hold that the plea of adverse possession must be strictly proved.

28. Reliance was also placed on *Gurtej Singh and others v. Balbir Singh and others* 2010(6) RCR (Civil) 772, wherein it was held that when the plaintiff claims possession on the basis of title and the defendant sets up adverse possession but fails to prove it, the plaintiff is entitled to possession through due process of law. Applying the same principle, the appellate Court held that the respondents, being the legal representatives of deceased Tejpal Singh, were entitled to recover possession from the appellants, who had no lawful right to remain in occupation of the property.

29. In conclusion, the appellate Court found that the learned trial Court had rightly decreed the plaintiffs' suit for possession and injunction. The findings



of the trial Court were affirmed in their entirety. It was held that the judgment and decree under appeal did not suffer from any illegality, perversity, or misappreciation of evidence and therefore called for no interference. Consequently, the appeal filed by the defendants was dismissed with costs, and the decree of the trial Court was upheld.

30. Aggrieved by the concurrent findings of the Courts below, the appellants have preferred the present appeal, which upon notice is contested by respondents No.1 to 4.

Submissions of learned counsel for the appellants

31. Learned counsel for the appellants contended that both the Courts below erred in dismissing the suit of the respondents/plaintiffs and in decreeing their claim for possession. It was argued that the findings on the issue of limitation are contrary to law and evidence on record. The respondents themselves admitted that Tejpal Singh had not been in possession of the suit property since 1994, and therefore, the limitation for filing the suit for possession, as per Articles 64 and 65 of the Limitation Act, was twelve years from the date of dispossession. Since the suit was instituted on 28.04.2015, it was clearly barred by limitation, and ought to have been dismissed on that ground alone.

32. It was submitted that the appellants have been in settled, continuous, and uninterrupted possession of the suit property since 1994, which has been recognized in the previous litigation between the parties. The trial Court, in the earlier suit decided on 18.01.1997, and the appellate Court in the judgment dated 28.10.1999, had categorically recorded findings that Sahib Singh was in possession of the property and that no injunction could be granted against a true owner in



favour of a trespasser. These judgments, which attained finality, clearly established that the appellants were in settled possession, although held to be unauthorized. It was urged that the Courts below, despite acknowledging these findings, failed to apply the principle of limitation correctly.

33. Counsel for the appellants further argued that the Courts below failed to appreciate that the possession of the appellants has been open, hostile, and continuous since 1994, and hence the ingredients of adverse possession stood satisfied. Reliance was placed on the earlier decree dated 25.10.1999 (Annexure A-4), wherein the possession of the appellants was recognized, and on subsequent revenue records showing Sahib Singh's name in the column of cultivation as *Gair Marusi*, while column No.9 relating to payment of rent was left blank. It was contended that such entries in the Jamabandi proved continuous possession and absence of payment of rent, thereby establishing adverse possession. It was also highlighted that the electricity connection for the premises stood in the name of Sahib Singh since 1993, which corroborated settled and independent possession.

34. It was next argued that the Courts below failed to give due weight to the judgment and decree dated 22.08.1994 obtained by Tejpal Singh in a collusive manner against Mohan Singh without impleading Sahib Singh. This judgment was later set aside vide decree dated 25.10.1999, which had attained finality. Hence, Tejpal Singh could not claim ownership or possession on the strength of a decree that was already annulled. The Courts below ignored the effect of that finding and brushed it aside lightly, despite the same being directly relevant to the issue of ownership and possession.



35. It was also submitted that the Courts below erred in holding that the plaintiffs were entitled to file a fresh suit for possession after the death of Tejpal Singh in 2014. The cause of action, according to the appellants, arose in 1994 when the alleged dispossession occurred, and hence no fresh cause of action could arise after more than two decades merely by virtue of inheritance. The respondents, being legal heirs of Tejpal Singh, could not revive a barred claim, and their suit filed in 2015 was time-barred.

36. Learned Counsel further emphasized that the judgments of 18.01.1997 and 28.10.1999 (Ex. P14 and Ex. P15) clearly held that Sahib Singh was in illegal but settled possession as *Gair Marusi*. Once these findings attained finality, subsequent possession could not be treated as fresh trespass. Accordingly, the period of limitation should have been reckoned from 1994, and by efflux of time, the appellants' possession ripened into ownership by adverse possession by the year 2009.

37. Reference was also made to the legal concept of *Gair Marusi* (tenant-at-will), as recognized in the Punjab Land Revenue Act, 1887 and the judgment reported as *Kanwar A. Ahmed Khan and Another Vs. The Union of India and Another [1954 PLR 468]*, where it was held that revenue officers frequently record persons in possession as tenants-at-will of the owner, even when no rent is paid. It was argued that entries of *Gair Marusi* in the Jamabandi, in the absence of any proof of payment of rent, could not be treated as indicative of tenancy but rather of unauthorized possession. Reliance was further placed on judgments reported in *Krishan Kumar and Others Vs. Lala Mathura Prasad Trust (Regd.) [2022(1)RCR (Civil) 307]* and *Ram Kishan and Others Vs. Jagdish and others*



[2018(2) PLR 149], where it was held that *Gair Marusi* entries unsupported by rent payment denote illegal possession and long-settled occupation.

38. The appellants also relied upon Article 65 of the Limitation Act, submitting that the limitation for a suit based on title begins to run from the date when the possession of the defendant becomes adverse to the plaintiff. It was urged that the Courts below erred in not applying these provisions correctly and in failing to dismiss the suit as time-barred.

39. Lastly, it was argued that the findings of the Courts below on the issue of plaintiffs' locus standi and clean hands were perverse. The plaintiffs had concealed material facts and misrepresented before the Court that they were dispossessed in 2015, whereas the record clearly showed that the appellants were in possession since 1994 and had been litigating with Tejpal Singh since that time. The plaintiffs thus approached the Court with unclean hands and suppressed vital facts, which disentitled them to the equitable relief of possession and injunction.

40. On these grounds, it was prayed that the concurrent judgments and decrees of both the Courts below be set aside, the suit of the respondents be dismissed as barred by limitation and devoid of merit, and the appellants' settled possession be recognized as adverse possession perfected by long lapse of time.

Submissions of learned counsel for respondent Nos. 1 to 4

41. Learned counsel for the respondents submitted that the arguments of the appellants regarding ownership by way of adverse possession have no substance, as both the Courts below have rightly appreciated the evidence and law while decreeing the suit of the plaintiffs. It was pointed out that the appellants themselves had earlier filed Civil Suit No.205 of 1994 before the Civil Judge



(Junior Division), Batala, which was decided by Shri Amarjit Singh Katari, PCS, wherein the only issue framed was whether the plaintiff (Sahib Singh) was entitled to the injunction prayed for. The onus was on Sahib Singh, and the suit was dismissed with costs on 18.01.1997, holding that he was not entitled to injunction. Thereafter, Civil Appeal No. 42 of 1997 was also dismissed, and the present RSA No.3048 of 2000 was filed by the same Sahib Singh. Hence, the plea of adverse possession was already tested and rejected, and the same cannot be reopened.

42. It was further argued that in the earlier litigation the ownership of Tejpal Singh stood clearly proved by the registered sale deed dated 15.05.1974 for a consideration of ₹13,800 executed by Mohan Singh, as also admitted by the defendant himself in his cross-examination. The revenue record and mutation No. 4102 dated 05.11.1997 were duly sanctioned in the name of Tejpal Singh, whose ownership has consistently been reflected in Jamabandis from 1998-99 onwards. Thus, there exists complete proof of title in favour of the plaintiffs' predecessor-in-interest, whereas the defendants have failed to prove any document conferring ownership on them.

43. The respondents contended that the defendants have been shown only as *Gair Marusi* in the cultivation column of the revenue record. Reliance was placed on ***RSA No.1334 of 1990, Punjab Waqf Board v. Hamid & Others, decided on 20.08.2025*** wherein it was held that such entries are at best permissive and cannot ripen into ownership unless the possession is hostile and adverse to the true owner. The revenue entries (Ex. D-6 to Ex. D-11) clearly show Tejpal Singh as owner in the ownership column, and therefore, the plea of adverse possession is



without basis. Mere long possession, without animus or denial of title of the true owner, cannot constitute adverse possession.

44. Learned Counsel argued that the defendants' plea lacks essential ingredients of adverse possession. For possession to mature into ownership by prescription, it must be actual, continuous, open, hostile, exclusive, and under a claim of right for the statutory period. In the present case, defendant No. 1 (Sahib Singh) was in possession only after the death of Tejpal Singh in 2014, and such possession never ripened into ownership because no open declaration or adverse act was ever shown. The defendants also failed to specify any date from which their possession allegedly became adverse. Hence, their claim of adverse possession is legally untenable.

45. The respondents also countered the appellants' argument on limitation, submitting that limitation is a mixed question of law and fact which cannot be decided without proof of possession being adverse. Since the plea of adverse possession itself is unproved, the question of limitation does not arise. Reliance was placed on Civil Appeal No. 90 of 2018, decided by the learned Additional District Judge, who, in paragraph 16, discussed in detail that the possession of Sahib Singh was unauthorized and could not be treated as peaceful or uninterrupted. The appellate Court had also noted that Sahib Singh was found to have trespassed into the suit property taking advantage of Tejpal Singh's absence when he was residing in Mumbai.

46. It was further submitted that the defendants have taken inconsistent pleas, claiming at one stage that Tejpal Singh sold the property to them for ₹20,000 and at the same time asserting ownership by adverse possession. Such



contradictory stands cannot be accepted in law. Moreover, there is no documentary proof of any sale or payment; the alleged oral transaction is unsubstantiated.

47. The respondents also drew the Court's attention to the mala fide conduct of the appellants, who tried to mislead the Court in RSA 3048 of 2000 by suppressing material facts and even impleading Mohan Singh (who had already died in 2003) as a party. It was also pointed out that the order dated 02.09.2003 passed in that RSA only protected the appellants from forcible dispossession except in due course of law; it did not confer any ownership or tenancy rights. The plea that the deceased Tejpal Singh was not served in that RSA is baseless, as the record of the process server clearly shows otherwise.

48. Learned Counsel further emphasized that the sale deed of 1974 has never been challenged in any of the previous suits, namely Civil Suit No.552 of 1994 or Civil Suit No. 383 of 1994, and thus the ownership of Tejpal Singh remains undisputed. The appellants' attempt to reopen that settled issue is therefore not maintainable. The sale deed was duly proved on record through PW-4 Paramjeet Kaur, Clerk from the DC Office, Gurdaspur, who produced the original register of the sale deed, registered as Vasika No. 730, Bahi No. 1049, and Jild No. 1011 dated 15.05.1974.

49. It was argued that the case laws cited by the appellants are entirely inapplicable, as the facts of those cases differ materially from the present one. The judgments relied upon by the appellants concern adverse possession established by open and hostile acts, whereas in the present case, there is neither any open hostility nor denial of ownership by the defendants.



50. The respondents finally submitted that Civil Suit No. 312 of 2015 has been rightly decreed in favour of the plaintiffs, holding that they are entitled to possession of the suit property and that the defendants have failed to prove ownership by way of adverse possession. The subsequent Civil Appeal No. 90 of 2018 was also dismissed, affirming the findings of the trial Court. Hence, in view of the concurrent findings of both Courts and the lack of any substantial question of law, the present Regular Second Appeal filed by Sahib Singh and another deserves dismissal.

Findings of this Court

51. I have considered the respective contentions of the counsel for the parties and gone through the record carefully. This Court is of the opinion that the present appeal is liable to be dismissed.

52. The factual and documentary material on record shows that the title and possession in respect of the suit land have been repeatedly litigated between the same parties over many years. The earlier Regular Second Appeal numbered 3048 of 2000 filed by Sahib Singh against Tejpal Singh, since deceased arose from a suit for permanent injunction between these parties and was dealt with above. In that RSA, the plaintiff, Sahib Singh was held not to be entitled to injunction. The trial Court and the appellate Court found that he had no lawful possession and that his entry into the land was as a trespassor. Those concurrent findings that the predecessor-in-interest, Tejpal Singh had title by reason of the registered sale deed of 15.05.1974 and that Sahib Singh's possession was unlawful are part of the record and have a direct bearing on the present Regular Second Appeal i.e. RSA-



1371/2025, which arises from a separate suit for possession between the same parties and the legal heirs of Tejpal Singh.

53. Two points flow from that earlier decision which materially affect the present dispute. First, the earlier judgment establishes that Sahib Singh's possession was, at least at one stage, as a trespassor and was the subject of earlier adverse findings. Those findings are not erased simply because later proceedings were instituted. An earlier judicial finding that a party is in unlawful possession weakens any later plea by that party that his possession was peaceful, hostile and exclusive so as to mature into title by prescription. Second, the interim order obtained in RSA-3048/2000 on 02.09.2003, which restrained dispossession except in due course of law, was procedural and protective in character. That interim protection did not and could not confer ownership, tenancy or any prescriptive right on the appellant. It simply restrained summary dispossession pending adjudication. Therefore the limited protection afforded by that order cannot be treated as evidence that the appellant had acquired a legally cognisable right defeating the registered title of Tejpal Singh.

54. Turning to the principal points argued in this appeal, the question of limitation and the claim of adverse possession. The appellants' case on limitation depends entirely on the contention that they have been in continuous and hostile possession since 1994 and that, by efflux of time, title by prescription accrued in their favour. If the date of commencement of adverse possession were to be fixed in 1994, the appellants allege, then a suit filed in 2015 would be time-barred and the plaintiffs' suit should have been dismissed. That contention cannot be accepted on the material before this Court. The record shows that the parties have been in



active litigation about the same land since the 1990. The earlier judgments expressly record that the appellants' entry was not in conformity with the owner's title and was treated as unlawful. Adverse possession requires more than mere length of occupation. It requires possession which is actual, continuous, open, notorious, hostile and exclusive and with an animus to hold against the title of the true owner for the statutory period. The Courts below have carefully considered the evidence and found those essential elements to be missing. In particular, there is no clear and cogent evidence that the appellants ever performed any overt act of hostility or made any open declaration which put the true owner on notice that their possession was adverse in the legal sense. Where litigation between parties is continuous and where prior Courts have found trespass, long presence alone cannot be treated as proof of hostile possession that ripens into title. On that factual matrix, the mere passage of time does not avail the appellants and the limitation point cannot rescue their case.

55. Even if the single entry in the revenue record showing Sahib Singh as *Gair Marusi* is considered, that entry by itself is insufficient to establish adverse possession. The record contains only one such entry and there is no supporting material to show payment of rent or the circumstances which would convert a revenue entry into proof of tenancy or into proof of hostile possession. The appellants have not produced any receipt or other documentary proof of payment of rent, nor have they produced cogent evidence that the *Gair Marusi* entry was made as an acknowledgment of tenant-at-will status in a manner defeating the owner's title. A single revenue entry, in absence of corroborative facts showing hostility and denial of title, is not enough to displace the registered sale deed and



long standing entries in the owner column in the Jamabandi. In short, the evidence on record does not establish that Sahib Singh was ever a paying tenant or that his possession was hostile in the sense required by law.

56. The appellants' other factual contentions are likewise unsupported. The claimed oral sale/ payment of ₹20,000 was never proved by any receipt or document. The appellants' pleas were inconsistent, at times alleging purchase and elsewhere relying on adverse possession and inconsistent pleas cannot be the basis for awarding title. The trial Court noted those contradictions and the appellate Court accepted that view. The material also shows that witnesses called for the defence admitted material aspects of the plaintiffs' case, including the existence and registration of the 1974 sale deed in favour of Tejpal Singh and the mutation sanctioned in his name. Those admissions, together with the certified revenue record and the judgments in the earlier suits, weigh heavily in favour of the plaintiffs and against the appellants' plea of ownership by prescription.

57. Finally, the timing of the present suit must be placed in context. The plaintiffs contend that they were dispossessed only after the death of Tejpal Singh and that their cause of action crystallised then. The appellants contend that their possession dates back to 1994. The Courts below have examined the evidence on these competing versions and have found that the plaintiffs' title by way of the sale deed of the year 1974 remains proved and that the defendants have failed to prove adverse possession at any relevant date. Given that finding, the limitation argument collapses as limitation runs from the date when possession becomes adverse to the owner, and here the defendants have not shown that their possession was adverse at any identifiable date with the requisite animus and open hostility. The earlier

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finding that Sahib Singh was a trespasser in the suit land is directly inconsistent with the appellants' present claim that their possession was peaceful and hostile to the owner from 1994 onwards.

58. For all these reasons, the proved registered title in favour of Tejpal Singh, the sanctioned mutation and entries in revenue records supporting that ownership, the prior judicial findings that Sahib Singh's possession was unlawful, the absence of evidence of payment of rent or any other indicia of tenancy, the inconsistency of the appellants' pleas, and the failure to prove the elements of adverse possession, this Court finds no reason to interfere with the concurrent findings recorded by the trial Court and the lower appellate Court. The judgment and decree in Civil Suit No. 312 of 2015, as affirmed by the lower appellate Court, do not suffer from any legal infirmity or perversity.

Conclusion

59. Accordingly, the present RSA No. 1371 of 2025 filed by Sahib Singh and another is dismissed. The concurrent findings and decrees of the Courts below are affirmed.

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

October 27, 2025
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(MANDEEP PANNU)
JUDGE

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