

**RSA-1836-2015 (O&M)****-1-****214****IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH****RSA-1836-2015 (O&M)  
Reserved on: 08.08.2025  
Pronounced on:18.08.2025**

Jagir Singh (deceased) through his LRs

.....Appellant

**VERSUS**

State of Punjab &amp; Others

.....Respondents

**CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU**Present: Mr. M.L.Sarin, Senior Advocate with  
Ms. Hemani Sarin, Advocate for the appellants.

Ms. Shruti, AAG Punjab.

**MANDEEP PANNU, J (ORAL)**

1. The present Regular Second Appeal has been filed by Jagir Singh (deceased) through his LRs (appellant/plaintiff) against State of Punjab and others (defendants/respondents), challenging the concurrent findings of the courts below recorded in judgments and decrees dated 14.01.2012 and 23.09.2014.

**BRIEF FACTS**

2. Brief facts of the case are that plaintiff filed a suit for declaration to the effect that the order dated 19.08.1975, later on modified by the Additional Commissioner Patiala vide order dated 10.04.1978, declaring .9867 hectares of land of Punjab Kaur, as surplus are illegal and void and suit for declaration to the effect that the order dated 10.05.1985 passed by Assistant Collector, First Grade Kharar regarding sanctioning of mutation number 840 in favour of defendant No.1- State of Punjab are also illegal and void and further the entries in the name of State Government incorporated on the basis of order passed by Assistant Collector First

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Grade, Kharar are wrong and liable to be corrected and further suit for permanent injunction restraining the defendant from taking possession of the land so declared as surplus of Punjab Kaur. It is the case of the plaintiff that Punjab Kaur owned the above said land in the year 1959-60. Punjab Kaur was having no issue of her own and she died issueless on 07.01.1977, leaving behind plaintiff Jagir Singh as her sole, second class legal heir. There was no collateral of Punjab Kaur. She was aunt of plaintiff in relation. It is further alleged that Punjab Kaur never filed any return with the State Government as required under law. In the absence of filing of return, the suit land belonging to her could not have been declared surplus but Collector Agrarian declared .9867 hectares of first quality land as surplus. In fact, Punjab Kaur gave 120 kanal 7 marla of land on 15.01.1970 to the eight sons of plaintiff. Later on, a decree to this effect was passed by Civil Court on 11.04.1972 and mutation dated 24.06.1973 was entered in the revenue record. The sons of plaintiff Jagir Singh challenged surplus proceedings before Additional Commissioner, Patiala, but during those proceedings, Punjab Kaur died. No one was impleaded as a legal heir and the proceedings to declare her land surplus continued in her absence. Additional Commissioner vide order dated 10.04.1978, modified the order passed by Collector Agrarian Kharar and remanded the case back to him for hearing. It is further averred that in this way proceedings conducted by Additional Commissioner Patiala and Collector Agrarian Kharar declaring .9867 hectares of land as surplus are illegal, null and void. Sons of plaintiff also challenged the above mentioned orders before Hon'ble High Court without impleading the plaintiff as party, though plaintiff being a legal heir of Punjab Kaur was a necessary party, though plaintiff being a legal heir of Punjab Kaur was a necessary party. Possession of land which was declared surplus had

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never been taken over by the State Government as there was an injunction order issued by Hon'ble High Court and thus the suit land was not utilised under Punjab Land Reforms Act and when possession of the land which is declared surplus is not taken and when such a land is not utilised under the Punjab Land Reforms Act, the landowners become entitled to file a fresh return and consequently, his sons are entitled to retain possession and the surplus proceedings are liable to be declared as illegal and void. It is further pleaded that on the basis of above impugned orders, the State Government entered mutation number 840 on 03.12.1980, but he same is also illegal and void. The State Government is trying to take possession after vacation of stay order by the Hon'ble High Court and consequently a notice under Section 80 CPC was issued to the defendants on 17.02.2006, but defendants have not acted upon it.

3. Defendants in this case were proceeded against ex-parte. Both the parties led their evidence. Both the learned lower Courts dismissed the suit of the plaintiff. Learned trial Court vide impugned order dismissed the suit of the plaintiff on the ground of limitation whereas learned First Appellate Court, dismissed the appeal, by observing, firstly, that no specific declaration has been sought regarding the right and title of plaintiff Jagir Singh and that the plaintiff has not proved himself to be the legal representative of deceased Punjab Kaur, and that it has not been explained what interest Jagir Singh holds in the land in dispute. It is further observed by learned lower Appellate Court that in both the impugned orders, it has been specifically averred by both the Collector Agrarian Kharar as well as Additional Commissioner Patiala that Punjab Kaur filed a return in Form A under Rule 5(1) of Punjab Land Reforms Rules, 1973, on 19.11.1973, vide which she declared that she owned 475 kanals 16 marla of land as on 24.01.1971, upon

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which Collector Agrarian held that if her total holding is converted into first quality land, it would come out that she held 9.0697 hectares of land and as her family comprised of less than five family members, she was permitted to retain permissible area to the extent of 7 hectares, leaving a balance of 2.0697 hectares as surplus. Learned lower Appellate Court further held that since specific recitals have been made in both the impugned orders certifying that a return in Form A was filed, hence at this stage merely by referring to document Ex.P-11, which is an application seeking certified copy of return dated 19.11.1973 and certificates Ex.P-12 and Ex.P-13 issued by the copy agency of the office of the Tehsil, it cannot be said that no such return may have been filed by Punjab Kaur.

4. It is further observed by both the Courts below that the suit is time barred as the same has been brought after three years of the accrual of cause of action. The impugned orders having been passed on 19.08.1975, 10.04.1978 and 10.05.1985, the limitation for seeking declaration of an order passed by competent Authority is three years. The plaintiff has sought the declaration against the above said orders after more than twenty-one years of the passing of the last order. Therefore, the suit of the plaintiff is time barred.

5. It is observed by the learned lower Appellate Court that there is no proof indicating that Punjab Kaur died on 07.01.1977, and that plaintiff in the present suit should have sought a declaration that he is a legal heir of Punjab Kaur, since the High Court had dismissed the writ petition of his sons by holding that they are not the heirs of Punjab Kaur.

6. Aggrieved by the above said order passed by the Courts below present Regular Second Appeal has been filed challenging the order passed by the learned lower Court and learned Appellate Court, dated 14.01.2012 and 23.09.2014.

**SUBMISSIONS OF LEARNED COUNSEL FOR THE APPELLANT**

7. Learned counsel for the appellant contends that the courts below erred in holding that the plaintiff had not proved himself to be the legal representative of Punjab Kaur. It is urged that it was never disputed that Punjab Kaur died issueless and that there was no collateral except the plaintiff, who was her class II heir. The fact stood unrebutted as the defendants were ex-parte. Learned counsel also argues that the plaint sufficiently explained plaintiff's interest in the land.

8. It is further submitted that Courts below wrongly disregarded Exhibits P-11, P-12 and P-13, which according to the appellant, showed that no return was filed by Punjab Kaur. In the absence of such return, the surplus proceedings and impugned orders were null and void.

9. Another argument advanced is that since possession of the land was never taken by the State, and the land remained unutilised under the Punjab Land Reforms Act, a fresh assessment ought to have been undertaken after Punjab Kaur's death. It was therefore, urged that the surplus proceedings could not be sustained.

10. With regard to the limitation, learned counsel contended that the suit was within time because the cause of action arose only in 2006 when the State attempted to forcibly take possession of the land, and not from the date of the original orders. Reliance was placed upon the judgment of the Punjab and Haryana High Court in *Manti and Others Vs. Sarwati Devi [Vol.CXXXVI 92004-)* *The Punjab Law Reporter 397]* wherein it was held that when a party is in possession and the revenue entries are challenged, limitation commences when threat to title is posed, and not from the date of the mutation.



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**SUBMISSIONS OF LEARNED COUNSEL FOR THE RESPONDENTS**

11. Learned State counsel appearing on behalf of the respondents/defendants, on the other hand, argued that there is no illegality in the well-reasoned and speaking orders passed by both the Courts below.

**FINDINGS**

12. Having considered the rival submissions, I find no substance in the appeal. The appellant-plaintiff failed to seek a specific declaration that he was the heir of Punjab Kaur. In the face of the earlier finding of the High Court in the writ petition filed by the plaintiff's sons that they were not heirs of Punjab Kaur, the claim of succession was disputed issue that required a clear declaration in the present suit. The absence of such relief was fatal to the maintainability of the suit.

13. The contention that Punjab Kaur never filed a return cannot be accepted. The statutory authorities recorded a categorical finding that she filed her return in Form 'A' on 19.11.1973. Such findings of a competent authority cannot be set aside merely on the basis of photocopies of applications or certificates of the copy agency. The Courts below were correct in holding that the evidence produced by the plaintiff was insufficient to rebut the official record.

14. The plea that fresh assessment was required after the death of Punjab Kaur is equally misconceived. The Punjab Land Reforms Act contemplates vesting of surplus land in the State once declared, irrespective of possession. The death of the landowner does not invalidate surplus proceedings already concluded in accordance with law.

15. Coming to the question of locus standi, I find that the plaintiff Jagir Singh lacked the requisite standing to assail the surplus orders. The surplus proceedings were taken against Punjab Kaur, the recorded owner, during her

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lifetime. The plaintiff never intervened in those proceedings, nor was he brought on record as her heir at the appropriate stage. The surplus declaration was therefore, complete as against the estate of Punjab Kaur. In these circumstances, Jagir Singh could not subsequently re-open those proceedings decades later by asserting heirship. Furthermore, as the lower Appellate Court has rightly observed, the plaintiff did not establish what specific interest he held in the land, particularly when the earlier writ petition by his sons had been dismissed and when no independent declaration of title was sought in the present suit. In absence of a clear right, title, or interest being shown, the plaintiff had no locus to question the validity of the impugned statutory orders.

16. As regards limitation, this Court does not find any illegality in the findings of both the Courts below. The challenge to the impugned orders was made more than twenty-one years after the last of them. Under Article 58 of the Limitation Act, the period is three years. The cause of action here clearly arose when the surplus orders were passed. The plaintiff cannot indefinitely postpone accrual of cause of action by claiming that it arose only when possession was attempted to be taken. The reliance on *Manti's case (supra)* is misplaced. That case involved revenue entries where the parties were in joint possession and the Court held that erroneous entries could be ignored until a real threat to possession arose. Here, however, the matter concerns statutory surplus declarations under the Punjab Land Reforms Act, which directly adjudicate rights and cannot be ignored. The factual deviation renders the precedent inapplicable.

17. Learned lower Appellate Court has dealt with all the above said contentions raised by the appellant-plaintiff in detail and passed a well reasoned judgment.



CONCLUSION

18. In view of the above, I find that the Courts below rightly dismissed the suit of the appellant/plaintiff. The findings are all well supported by law and evidence. Therefore, no ground for interference is made out in this Regular Second Appeal, which is dismissed accordingly.

19. No order as to costs.

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

August 18, 2025  
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(MANDEEP PANNU)  
JUDGE

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