

2026:PHHC:058168



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

RSA-49-1999

Reserved on: 30.01.2026

Pronounced on: 17.04.2026

MEWA SINGH (SINCE DECEASED) THROUGH LRS

....Appellant

Versus

BALWANT SINGH (SINCE DECEASED) THROUGH LRS
AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Amit Jain, Senior Advocate with
Mr. Parit Aggarwal, Advocate
for the appellants.

Mr. Saket Bhandari, Advocate
for the respondents.

PARMOD GOYAL, J. (ORAL)

The present regular second appeal has been preferred by unsuccessful appellant/plaintiff being aggrieved by judgment and decree dated 29.08.1998, passed by learned Additional District Judge, Karnal, whereby first appeal preferred by respondents/defendants against judgment and decree dated 03.10.1994, passed by learned Senior Sub Judge, Karnal, whereby suit for possession preferred by appellant/plaintiff was decreed, was set aside.

2. Appellant/plaintiff in his suit for possession claimed suit land measuring 16 kanal 0 marla fully described in the plaint to be owned exclusively by appellant/plaintiff in exclusion of respondents/defendants. It was claimed that respondents/defendants are trespassers and are in illegal

possession of suit land since 1981. It was claimed by appellant/plaintiff that a petition for ejectment under Section 14A of Punjab Security of Land Tenure Act, 1953 seeking ejectment of respondents/defendants was preferred before Assistant Collector, First Grade, Karnal. The said suit bearing No.10/DRO86 filed on 25.07.1986 was decided by Assistant Collector, First Grade, Karnal vide order dated 04.01.1988. Respondents/defendants in the eviction proceedings had denied relationship of landlord and tenant over suit property and since relationship was denied, the said eviction petition was decided against appellant/plaintiff. The appeal preferred by appellant/plaintiff was dismissed vide order dated 17.05.1988 by Collector, Karnal holding that in absence of any relationship of landlord and tenant the possession over suit land of respondents/ defendants was of trespasser. Appellant/plaintiff had accordingly sought possession of suit land by filing suit for possession.

3. Respondents/defendants contested the suit and took number of preliminary objections with regards to maintainability and suit not properly valued for the purposes of Court fee and jurisdiction. Respondents/defendants had claimed themselves to be in possession of suit property and also asserted that even if they are not held owners, they have become owners on account of adverse possession as they are in actual physical possession over the suit land for more than 30 years. Accordingly, dismissal of suit was prayed for.

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

1. Whether the plaintiff is owner of the suit land? OPP
2. Whether the possession of the defendants is illegal and is that of trespasser? OPP

3. Whether the suit is not properly valued for the purposes of Court fee and jurisdiction? OPD
4. What is the effect of the litigation between the parties in Revenue Court. Onus of parties.
5. Relief.

5. Learned Court of first instance had decided issues No.1, 2 and 4 in favour of appellant/plaintiff and against respondents/defendants. Issue No.3 was also decided in favour of appellant/plaintiff and against respondents/defendants, accordingly, suit was decreed. Appellant/plaintiff was held to be owner of suit property and entitled to possession of suit land. However, learned First Appellate Court reversed the finding of learned Court of first instance on issue No.1 and 2. Issues No.1 and 2 were decided in favour of respondents/defendants and against appellant/plaintiff. Finding on issue No.3 was affirmed whereas finding on issue No.4 was modified. Accordingly, appeal was allowed and suit of appellant/plaintiff was dismissed. Learned First Appellate Court concluded that appellant/plaintiff failed to prove his adoption by Smt. Partapi Devi, actual owner of suit property and accordingly held that appellant/plaintiff is not entitled to claim possession having failed to prove his ownership over the suit property.

6. Aggrieved by above, appellant/plaintiff has preferred the present appeal challenging conclusion drawn by learned First Appellate Court. Along with appeal, appellant/plaintiff has also preferred an application under Order 41 Rule 27 CPC seeking to lead additional evidence. In his application for additional evidence, appellant/plaintiff has claimed that he was adopted by Smt. Partapi Devi vide registered adoption deed dated 30.10.1968. The issue regarding adoption was subjected to

screening of Courts in Civil Suit No.675 of 1968 in case titled 'Mewa Singh Vs. Smt. Patori Etc.' in which father of respondents/defendants was also a party. The Civil Court vide its judgment dated 05.04.1973 decided that appellant/plaintiff is adopted son of Smt. Partapi Devi. The adoption was upheld by Hon'ble High Court in RSA-845-1977. It is pleaded by appellant/plaintiff that inadvertently certified copy of judgment dated 05.04.1973 and adoption deed which otherwise stood settled between the parties was not placed by counsel for appellant/plaintiff. Appellant/plaintiff being an illiterate person has always been under the impression that matter is not in dispute as same stood decided upto Hon'ble High Court and, therefore, it was not necessary to place the same on record. It was asserted that learned First Appellate Court had wrongly concluded that appellant/plaintiff has failed to prove his adoption and, therefore, it was necessary to place the same for just and effective decision of the present appeal. Appellant/plaintiff had accordingly sought to place copy of judgment and decree dated 05.04.1973, passed by learned Sub Judge, First Class, Karnal and certified copy of adoption deed in additional evidence.

7. Learned counsel for appellant/plaintiff submitted that judgment and decree dated 05.04.1973 wherein adoption was subject matter of civil litigation was duly contested by predecessor-in-interest of respondents/defendants as their father had challenged and contested the adoption of appellant/plaintiff by original land owner Smt. Partapi Devi and vide judgment and decree dated 05.04.1973 registered adoption made by Smt. Partapi Devi was held to be valid. The same had attained finality as it was upheld by Hon'ble High Court in RSA-845-1977. It is asserted that certified copy of judgment and decree dated 05.04.1973 as well as registered adoption

deed is necessary to decide the present lis in an effective and just manner. The document so sought to be adduced in additional evidence is required for just decision of the case.

8. Learned counsel for appellant/plaintiff has relied upon the following judgments :-

- A. **Gurdial Singh & Ors. Vs. Mam Chand & Ors.**, 2011 (1) RCR (Civil) 690;
- B. **Ram Niwas Vs. Kalu Ram & Anr.**, 2012 (4) RCR (Civil) 56;
- C. **Lachhman Singh (Deceased) through Legal Representatives & Ors. Vs. Hazara Singh (Deceased) through Legal Representatives & Ors.**, 2008 (5) SCC 444;
- D. **North Eastern Railway Administration, Gorakhpur Vs. Bhagwan Das (D) By LR's**, 2008 (8) SCC 511;
- E. **Billa Jagan Mohan Reddy Vs. Billa Sanjeeva Reddy**, 1994 (4) SCC 659;
- F. **Ram Kumar Vs. Malla**, 1986 RRR 500;
- G. **Harish Chander & Ors. Vs. Ghisa Ram & Anr.**, 1981 (1) SCC 431;
- H. **Muddasani Venkata Narsaiah (D) Th. LR's Vs. Muddasani Sarojana**, 2016 (3) RCR (Civil) 236;
- I. **Communist Party, Ropar & Ors. Vs. Sant Saran Bhalla (Dead) through his LR's & Ors.**, 2007 (3) RCR (Civil) 361;
- J. **Mallikarjunaiah Vs. Nanjaiah & Ors.**, 2019 (3) RCR (Civil) 12;
- K. **Ram Nagina Rai & Anr. Vs. Deo Kumar Rai (Deceased) By LR's & Anr.**, 2018 (5) RCR (Civil) 398.

9. Learned counsel for respondents/defendants has relied upon the following judgments :-

- A. **Joginder Singh & Anr. Vs. Harbans & Ors.**, 2006 (2) RCR (Civil) 120;
- B. **Sukhdev Singh (deceased) through LRs Vs. Jaspal Singh & Ors.**, Civil Revision No.2256 of 2017, decided on 24.07.2017;
- C. **Iqbal Ahmed (Dead) By LRs & Anr. Vs. Abdul Shukoor**, 2025 (4) RCR (Civil) 297'
- D. **Mohinder Kaur & Anr. Vs. Para Singh & Ors.**, 1980 SCC Online P&H 251;
- E. **Javedbhai @ Javedkhan Babubhai Saiyad & Ors. Vs. Sikandarali Kasamali Kureshi & Anr.**, 2025 (1) GujLH 43;
- F. **Union of India Vs. Ibrahim Uddin & Anr.**, 2012 (8) SCC 148;
- G. **Smt. Nirmala Devi Vs. Gurgaon Scheduled Caste Vimukta Agriculture Thrift and Credit Society Limited & Ors.**, 2017 (4) RCR (Civil) 707;
- H. **Jaswant Singh & Anr. Vs. Paramjit Kaur & Ors.**, 2025 NCPHHC 25976;
- I. **J. Balaji Singh Vs. Diwakar Cole & Ors.**, 2017 (3) RCR (Civil) 85;
- J. **Gautam Sarup (Now Deceased) Through LRs Vs. Anand Saroop & Ors.**, 2024 NCPHHC 94675.

10. On the other hand, learned counsel for respondents/defendants has argued that evidence sought to be adduced is beyond pleadings and has

no concern with the present case as appellant/plaintiff was aware from day one that it was appellant/plaintiff who had to prove his ownership, but failed to do the same, hence, present application under Order 41 Rule 27 is not maintainable.

11. Principle of law as settled in the judgments cited by learned counsel for appellant/plaintiff and respondents/defendants is not in doubt. Power to allow additional evidence is governed by provisions of Order 41 Rule 27 CPC. Order 41 Rule 27 CPC is reproduced as under for ready reference :-

“27. Production of Additional Evidence in Appellate Court.

- (1) *The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate Court, But if:*
- (a) *the Court from whose decree the appeal is preferred has refused to admit evidence which ought to have been admitted, or*
 - (aa) *the party seeking to produce additional evidence, establishes that notwithstanding the exercise of due diligence, such evidence was not within his knowledge or could not, after the exercise of due diligence, be produced by him at the time when the decree appealed against was passed, or*
 - (b) *the Appellate Court requires any document to be produced or any witness to be examined to enable it to pronounce judgment, or for any other substantial cause, the Appellate Court may allow such evidence or document to be produced, or witness to be examined.*
- (2) *Wherever additional evidence is allowed to be produced by an Appellate Court, the Court shall record the reason for its admission.”*

12. Under Clause (a) of Order 41 Rule 27(1) CPC, the Court has power to allow evidence which has been refused wrongly by Court below.

Under Clause (aa) additional evidence can be allowed if such evidence was not within knowledge or could not be adduced after exercise of due diligence before the learned Court of first instance. As far as present case is concerned, neither Clause (a) nor Clause (aa) has any applicability. Learned counsel for appellant/plaintiff has placed reliance upon Clause (b) of Order 41 Rule 27(1) CPC wherein document or witness which enables Court to pronounce judgment or for any other substantial cause can be allowed by Appellate Court.

13. It is therefore, to be seen whether in the present case the documents sought to be adduced in evidence would be necessary for pronouncement of judgment or would promote any other substantial cause.

14. In the present case, following facts are not in dispute: that the appellant/plaintiff claims himself to be adopted son of Smt. Partapi Devi and had claimed the suit land owned by Smt. Partapi Devi being the adopted son and successor of Smt. Partapi Devi. Though appellant/plaintiff had claimed that respondents/defendants were inducted by him on 'batai' as tenants, but after paying rent for two years they had stopped paying the rent, however, relationship of landlord and tenant has been specifically denied by respondents/defendants. Also in earlier round of litigation before Assistant Collector, First Grade, Karnal wherein appellant/plaintiff had sought eviction of respondents/defendants it was held that no relationship of landlord and tenant exists.

15. On one hand, appellant/plaintiff is claiming suit property being successor of Smt. Partapi Devi being her adopted son, on the other hand, suit land is being claimed by respondents/defendants on the basis of adverse possession. Issue No.1 as framed by learned Court of first instance places

onus upon appellant/plaintiff that he is owner of suit property. Appellant/plaintiff has duly claimed that he is adopted son of Smt. Partapi Devi and has also placed on record agreement which has been duly noticed by learned Court of first instance whereby appellant/plaintiff was given in adoption by his biological parents to Smt. Partapi Devi. Therefore, both the parties are aware that appellant/plaintiff is claiming his right over suit property on the basis of adoption.

16. Now appellant/plaintiff is seeking to adduce judgment and decree dated 05.04.1973 as well as registered adoption deed to prove and establish his adoption by Smt. Partapi Devi. It is his claim that on earlier occasion adoption of appellant/plaintiff made by Smt. Partapi Devi was challenged by others claiming rights through Smt. Partapi Devi by way of a suit and one of the respondents/defendants in the said suit was predecessor-in-interest of respondents/defendants i.e. their father. It is the case of appellant/plaintiff that said suit had culminated vide judgment and decree dated 05.04.1973, whereby it was held that Smt. Partapi Devi had duly adopted appellant/plaintiff to be her lawful son. Similarly, appellant/plaintiff is also relying upon registered adoption deed which is also a public document being registered document available with office of Sub Registrar. Both judgment and decree dated 05.04.1973 as well as registered adoption deed are public documents which cannot be created or manipulated by appellant/plaintiff. The issue stated therein regarding the validity of adoption of appellant/plaintiff by Smt. Partapi Devi is issue which is directly an issue in the present appeal. In these circumstances, the only conclusion which can be drawn is that both the documents sought to be adduced by appellant/plaintiff by way of additional evidence are necessary documents

for just and effective decision of the present appeal as it would help this Court to pronounce the judgment in an effective and fair manner.

17. None of the judgments referred by learned counsel for respondents/defendants is of any help to their case, in view of above discussion, especially when appellant/plaintiff has duly pleaded factum of adoption and both the documents sought to be produced in additional evidence are public documents which cannot be created or manipulated and are also required for proper adjudication of the present case.

18. Accordingly, application for additional evidence is allowed. Matter be sent to learned First Appellate Court to record additional evidence sought by appellant/plaintiff and allowed by this Court within a period of four months from receipt of case file. Learned First Appellate Court shall also give appropriate opportunity to respondents/defendants to rebut additional evidence so placed on record by appellant/plaintiff. The additional evidence along with rebuttal by respondents/defendants be sent back to this Court for final adjudication of appeal along with report by learned First Appellate Court. Main appeal shall be taken up after receipt of report of learned First Appellate Court regarding additional evidence.

19. Pending application(s), if any, is/are disposed of accordingly.

17.04.2026
chiranjeev

(PARMOD GOYAL)
JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No