

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

**RSA No.6093 of 2015 (O&M)  
Date of Decision.14.02.2019**

Rajbir and others

...Appellants

Vs

Sanjay and others

...Respondents

**CORAM:HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. Ramender Chauhan, Advocate  
for the appellants.

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**AMIT RAWAL J. (ORAL)**

**C.M. No.15240-C of 2015**

For the reasons stated in the application, delay of 74 days  
in re-filing of the appeal is condoned.

Application is allowed.

**RSA No.6093 of 2015**

The appellants-defendants No.5, 7 and 9 assailed the  
concurrent finding of fact whereby suit of the respondent No.1 and  
2/plaintiffs for declaration of having become owner by virtue of the  
sale deed dated 15.07.1966 and challenge to the mutation No.1715  
dated 26.02.1968 has been decreed.

The plaintiffs asserted that vide sale deed  
aforementioned had purchased the land measuring 11 kanals 8 marlas  
from Hanno Bai daughter of Agra Devi and the possession of Killa  
No.18/16 min(3-14)-17min(4-0)-25min(3-14) was given. She also  
sold land measuring 32 kanals 0 marla to Hari Singh son of  
Bakhtawar Singh vide sale deed dated 753 dated 15.7.1966. Sheo  
Narayan on the basis of sale deed No.752 dated 15.7.1966 applied for

mutation but the same was cancelled and mutation No.1715 was sanctioned of the whole 68 kanals 19 marlas in favour of Hari Singh, father of defendants No.1 to 16 whereas mutation of only 32 kanals was required to be sanctioned. Hanno Bai suffered a decree dated 24.01.1963 regarding 50 kanals 3 marlas in favour of Phool Singh and mutation No.1761 in this regard was sanctioned in the year 1964. Grandfather of the plaintiffs namely Sheo Narayan purchased 27 kanals 8 marlas in the revenue estate of Kharak vide registered sale deed dated 21.5.1973 and also 11 kanals 14 marlas vide sale deed dated 25.04.1980. Sheo Narayan in the family settlement suffered a decree in civil suit No.185 of 1992 in favour of plaintiffs regarding 46 kanals 16 marlas including the land purchased from Hanno Bai and since then plaintiffs had been owners in possession including 11 kanals 8 marlas purchased from Hanno Bai. On demise of Hari Singh, mutation of land was sanctioned in favour of defendants No.1 to 16 on the basis of inheritance but despite several requests for correction, defendants did not pay any heed.

Defendants No.8 to 11 opposed the suit by filing joint written statement and raised objection qua suit being barred by limitation and stated that sale deed was executed on 15.07.1966 and suit was filed to which plaintiffs were party and had knowledge about the mutation. The suit property was purchased by their father after paying whole amount to Hanno Bai whereas Sheo Narayan was real cousin of their father on whom their father had full trust. On merit, execution of the sale deed by Hanno Bai in favour of Sheo Narayan was denied.

Defendant No.27 filed separate written statement.

Defendants No.5, 7, 9 and 13 did not file written statement.

The plaintiffs in support of aforementioned evidence examined one witness and brought on record Ex.P1 to P9 sale deeds, mutations, jamabandies etc. On the other hand, defendants examined two witnesses and brought on record Ex.D1 to D11 i.e. khasra girdawaries, judgments, jamabandies etc.

Learned counsel appearing on behalf of the appellants submitted that both the Courts below have abdicated in decreeing the suit, as the sale deed bearing No.752 dated 15.07.1966 had not seen light of the day. In fact, the entire land was sold by Hanno Bai vide sale deed bearing No.753 dated 15.07.1966 in favour of Hari Singh real cousin of Sheo Narayan and plaintiffs being legal heirs of Sheo Narayan by taking benefit of relationship filed the suit in 2007, which was barred by law of limitation, for, the factum of mutation was in their knowledge. Plaintiffs failed to discharge onus with regard to ownership and in such circumstances, Courts below could not have decreed the suit.

I am afraid aforementioned arguments are not sustainable, for, defendants did not deny execution of the sale deed dated 15.07.1966, as on the same date, two sale deeds were executed as indicated above i.e. 752 and 753. Mutation does not confer title but as and when property is admitted to be sold or exchanged, mutation is always seen by the purchasing party. There is no limitation for claiming declaration of ownership on the basis of title.

Plaintiffs have already been in possession of property and when possession was disturbed, the suit aforementioned was filed. Jamabandies brought on record also reflected sale of land measuring 11 kanals 8 marlas in favour of plaintiffs and 32 kanals and odd marla in favour of father of the appellants-defendants. All these factors weighed in the mind of courts below while decreeing the suit.

In view of aforementioned circumstances, I do not subscribe to the arguments raised by Mr. Chauhan to form a different opinion than the one already arrived at by the Courts below, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed.

**(AMIT RAWAL)**  
**JUDGE**

**February 14, 2019**

Pankaj\*

Whether Reasoned/Speaking    Yes

Whether Reportable                No