

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****127****RSA-3294-2019 (O&M)****Date of decision: 22.09.2025****Bhagwant Singh Bedi****...Appellant(s)****Vs.****Tejpal Singh Bedi and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA****Present:- Mr. Parminder Singh, Advocate for the appellant.****NIDHI GUPTA, J.**

Present Second Appeal has been filed by the plaintiff against the concurrent judgments and decrees of the learned Courts below; whereby suit of the appellant for declaration with consequential relief of permanent injunction, has been dismissed by both the Courts below.

2. It is the case of the appellant that Ajit Singh Bedi, father of the plaintiff and defendants No.1 to 4 was owner in possession of land measuring 174K-10M. It was alleged that Defendant No.1 had exchanged his land measuring 79K-9M with Karnail Singh, Avtar Singh, Daryao Singh and Pritam Kaur. Plaintiff had no knowledge about this exchange of land. After the death of Ajit Singh Bedi, defendant No.1 had approached all his brothers including the plaintiff for settling their shares in the property left behind by their father Ajit Singh Bedi, pursuant to which, it was agreed between the parties to share the properties equally. However, in 2005,



plaintiff came to know about a mutation of the land measuring 148K-15M recorded in the name of defendant No.1 on the basis of Gift Deed allegedly executed by Ajit Singh Bedi in 1958. It was further pleaded that without the knowledge of the plaintiff and defendants No. 2 to 4, defendant No.1 had sold the land measuring about 63K-9M to defendant No. 5 to 7 for sale consideration of Rs.22,70,000/-; and had also sold land measuring 26K-14M on 20.10.2004 for sale consideration of Rs.9,91,000/-. It was pleaded that now the defendants No. 5 to 7 are claiming themselves to be owners in possession over the suit property including the other land measuring 27K-1M on the basis of aforementioned illegal Sale Deeds executed by defendant No.1, without having any legal right. Defendant No.1 had also sold land measuring 4K-9M out of land measuring 15K-19M which was in the ownership of the plaintiff out of 79K-18M after the death of father of the plaintiff. It was pleaded that alienation of the land measuring 4K-9M is against right of inheritance devolved upon the plaintiff. It was further averred that defendant No.1 had agreed to alienate the property bearing No. 146 situated at G.T.Road, Karnal for valuable sale consideration of which major portion was received by defendant No.1 for which he was facing criminal prosecution. Moreover, defendant No.1 had not rendered any services to his father during his entire lifetime, and it was the plaintiff, who had all the love and affection for his father Ajit Singh Bedi. Plaintiff had made several requests to defendants to admit his claim however, to no avail. Hence, present Suit was instituted on 18.05.2006.



3. Vide judgment and decree dated 20.05.2014, the learned Civil Judge (Senior Division), Karnal had dismissed the suit of the plaintiff with costs. The appeal filed by the plaintiff was also dismissed with costs by the learned Additional District Judge, Karnal vide judgment and decree dated 22.10.2018. Hence, present second appeal by the plaintiff.

4. It is *inter alia* submitted by learned counsel for the appellant that in actual fact, the suit property was ancestral in the hands of Ajit Singh Bedi. Ajit Singh Bedi had expired on 20.05.2003 leaving behind the plaintiff and defendants No. 1 to 4 as his legal heirs. As the suit property was ancestral in nature, the same could not have been given to defendant No.1 vide Gift Deed dated 13.11.1957; and therefore, the same could not have been further sold by defendant No.1 to defendants No. 5 to 7 by way of Sale Deeds dated 06.05.2004 and 22.10.2004. It is further submitted that the mutation emanating from the said transfers/transactions are also therefore, illegal and unsustainable.

5. Ld. Counsel further submits that the plaintiff had duly proven the ancestral nature of the land by bringing on record Jamabandi for the year 1945-46 Ex.P2 to show that suit property in the hands of Nihal Singh father of Ajit Singh, was also ancestral in nature. However, this evidence has not been correctly appreciated by learned Courts below. It is submitted that defendants had failed to prove the alleged payment of Rs.31 lacs to the plaintiff. Thus, there was no basis of the execution of Gift Deed dated 13.11.1957 in favour of defendant No.1 by excluding plaintiff



and other defendants No.2 to 4. In this regard, evidence of DW1 Ram Phal Maan and DW4 are important.

6. It is further submitted that it is patently clear that as per the pedigree table, Sh. Ajit Singh has inherited the entire share of Sh. Wadhawa Singh by dint of Sanad Ex.P5 on record. The entire property of Sh. Wadhawa Singh was inherited by Sh. Nihal Singh and in turn inherited by Ajit Singh. The Id. Trial Court upon overlooking this aspect of the matter, wrongly dismissed the suit on the ground that the Sanad Ex.P5 does not contain the Khasra number of the land, which Sh. Ajit Singh inherited. It has been further held that the plaintiff by way of GPA and affidavit has received sum of Rs.31 lacs in lieu of his share. Further, it has held that the plaintiff has knowledge of the ownership of the defendant over the land and that the simplicitor Suit for Declaration of title without consequential relief of possession is not maintainable.

7. Learned counsel for the appellant submits that the plaintiff alongwith appeal, moved the application for additional evidence in order to adduce on record the copy of the mutation sanctioned in favour of Ajit Singh-common ancestor way back on 11.02.1953. It has been pleaded that the document more than 30 years old is per-se admissible in evidence and document is necessary for the just adjudication of the entire controversy. It is pleaded that inspite of due diligence, plaintiff could not earlier able to lay hand over the mutation. However, Id. 1st Appellate Court vide judgment and decree dated 22.10.2018 merely reiterated the findings of



the Ld. Trial Court and dismissed the Application for additional evidence and consequently the appeal by dint of common judgment.

8. It is further submitted that the plaintiff by way of evidence in the shape of pedigree table Ex.P1, Jamabandi Ex.P2 and Sanad Ex.P5 and mutation enclosed alongwith application for additional evidence that the property in the hands of Ajit Singh s/o Nihal Singh s/o Wadhawa Singh was ancestral. The plaintiff has relied upon Chapter 223 of the Mulla law defines the property as ancestral property and proved on record that it has been devolved in the hands of male Hindu from his father and father's father. The pedigree table clearly demonstrate that Sh. Wadhawa Singh son inherited the property from his forefathers and then came into the share of Nihal Singh and then in turn came in the share of Sh. Ajit Singh- common ancestor.

9. It is accordingly prayed that the present Second Appeal be allowed; and the impugned judgments and decrees of the learned Courts below be set aside.

10. No other argument is raised on behalf of the appellant. I have heard Id. Counsel and perused the case file in great detail.

11. I find no merit whatsoever in the submissions made on behalf of the appellant. It has firstly been submitted by the appellant that the suit land was ancestral in nature. However, the plaintiff has miserably failed to prove that the suit land was ancestral and coparcenary in nature at the hands of Ajit Singh Bedi at the time of execution of Gift Deed dated



13.11.1957. In support of his claim, plaintiff has relied upon pedigree table Ex.P1, Jamabandi Ex.P2, Sanad Ex.P5 and copy of complaint Ex.PX. However, merely on the basis of these documents, it cannot be inferred that the suit land which was inherited by Ajit Singh Bedi from his forefathers was the same land which was received by Ajit Singh Bedi in lieu of land in Pakistan. ExP5 Sanad produced by the plaintiff did not contain khasra numbers of the land inherited by Ajit Singh Bedi. As such, plaintiff had failed to produce the link evidence to establish the alleged ancestral nature of the suit land. Before the learned First Appellate Court, the plaintiff had led additional evidence to bring on record mutation No. 2851 dated 11.02.1953. However, the same was also of no help to the plaintiff as by virtue of the said mutation, Ajit Singh Bedi had received the entire land in inheritance of Nihal Singh. Thus, plaintiff was again unable to establish that the land in the hands of Ajit Singh Bedi in India was ancestral in nature having been receiving in lieu of land in Pakistan. No doubt, plaintiff had produced certain Urdu documents Ex.P1 to Ex.P4 and Mark-1 and 2. However, plaintiff was unable to establish that:

- a. that the land in Pakistan was ancestral;
- b. that the suit land in India was in lieu of said land in Pakistan and;
- c. therefore, the land in India was ancestral in nature.

12. Therefore, the link evidence that the land in India was ancestral in nature, is missing. It has further been alleged by the plaintiff that the disputed Gift Deed was procured by defendant No.1 by playing fraud. However, except for the bald and self-serving statement of the



plaintiff, there was no evidence whatsoever to substantiate the allegations of the plaintiff. Needless to say, the Gift Deed being a registered document, presumption to truth is attached to it. Moreover, plaintiff had failed to lay challenge to the said Gift Deed and has only challenged the mutation No. 2987 which was entered and sanctioned on the basis of the said Gift Deed. It may even be noticed that in fact in the plaint, the plaintiff had wrongly and vaguely mentioned the Gift Deed was executed in the year 1958 which is contrary to the documentary evidence.

13. Lastly, suit of the plaintiff was barred by limitation as, in respect of the Gift Deed dated 13.11.1957, suit has been filed by the plaintiff on 18.05.2006. It has been contended by the plaintiff that he came to know about the existence of Gift Deed only in 2005. However, nothing has been stated by the plaintiff as to how, in what manner, or on what date, at which place and from whom plaintiff discovered about the said Gift Deed. To the contrary, the learned first Appellate Court, on the basis of the documentary evidence Ex.DW2/A to Ex.DW2/F has found that Punjab National Bank had instituted a suit for recovery against the plaintiff which was decreed and in execution of that decree, the land of defendant No.1 measuring 94K-12M received from Ajit Singh Bedi by virtue of said Gift Deed dated 13.11.1957 had been attached. Clearly, therefore, the plaintiff had full knowledge regarding the said Gift Deed, however, had failed to challenge the same. Furthermore, defendant No.1 had sold major part of of the disputed land measuring 94K-12M to defendants No. 5 to 7 in the year 1982. Even the possession of the said land was delivered to the



vendees. However, no objection was raised by the plaintiff at that time. Even defendants No. 2 to 4 have not joined the plaintiff for common cause either by filing separate written statement or by filing separate suit. Furthermore, plaintiff was not shown to be in possession of the suit land as he has admitted in his cross-examination that he has not cultivated the suit land since 1970 to 1994; and even after 1994, there is no document to show that plaintiff had ever been in possession of the suit land. Rather, plaintiff has sought a decree of declaration that he be treated to be in joint possession of suit land. The relevant findings of the first Appellate Court are contained in para 27 of judgment dated 22.10.2018, which read as under:

“27. Apart from this, it is the considered view of this court that the plaintiff had executed an affidavit and GPA on 18.05.2005 in favour of defendant no.1 which are Ex.D2 & Ex.D3 and the plaintiff in his cross-examination has admitted his signatures over those documents and if these documents are perused, then they would show that in GPA Ex.D2 the plaintiff had claimed his ownership only qua 15K-19 1/2 M, which he had received from Ajit Singh in succession vide mutation no.5408 regarding 79K-18M and had the plaintiff been entitled for a share out of land measuring 94K-12M, subject matter of gift deed, then he would not have executed this GPA for a limited share. Moreover, vide affidavit Ex.D3 the plaintiff had settled his all the disputes with defendant no. 1 for an amount of Rs.31 lakhs which he allegedly had received. In his further cross-examination however the plaintiff claims that his signatures were obtained on blank papers, but it is not the case of plaintiff because in his

revocation letter dated 27.07.2005 Ex.P1/A, which was written by the plaintiff to defendant no.1, he says that now he was able to manage his land, therefore, he was revoking his GPA, meaning thereby that at one hand he admits the execution of GPA as well as affidavit, but on the other hand he claims that his signatures were obtained by defendant no.1 on blank papers.”

14. Learned counsel for the appellant is unable to controvert or dispute the above said facts and findings.
15. In view of the above, no ground is made out to interfere in the concurrent judgments and decrees of the learned Courts below.
16. The present Regular Second Appeal is hereby **dismissed**.
17. Pending applications, if any, stand disposed of.