

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****135****RSA-970-2025 (O&M)****Date of decision: 25.09.2025****Ved Pal and another****...Appellant(s)****Vs.****Rajbir****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Ashish Rana, Advocate for the appellants.

NIDHI GUPTA, J.

Present Second Appeal has been filed by the defendants against the concurrent judgments and decrees of the learned Court below; whereby suit of the plaintiff-respondent for possession has been decreed by both the Courts below and the appellants have been directed to hand over the vacant peaceful possession of the suit property to the plaintiff.

2. It is *inter alia* submitted by learned counsel for the appellants that the plaintiff has claimed that he was allotted plot No. 87/12/24 (suit property); whereas the plot No. 87/12/25 was allotted to the appellants on 19.08.1994 by way of registered Gift Deed No. 4307. It is submitted that the construction over the suit property was raised by the appellants in the year 1995 alongwith their own plot, which is adjoining to the suit property. It is contended that since then, till the date of filing of the present suit on 05.05.2015, no objection of any kind was raised by the



plaintiff inspite of having specific knowledge of the construction raised by the appellant. It is contended that therefore, even if the plaintiff is owner of the suit property, the defendants became owners of the suit property by way of adverse possession.

3. Learned counsel for the appellants further submits that both the Courts below have miserably failed to appreciate the fact that there is nothing on record to prove that the suit property is plot No. 87/12/24 and not 87/12/25 which was allotted to the appellants vide Gift Deed No. 4307 dated 19.08.1994. The appellants are not bound by the alleged Demarcation Report Ex.PW2/A, which was relied upon by the plaintiff. The alleged demarcation was never carried in the presence of the defendants nor was any notice ever given to them in this regard. Thus, the said demarcation report is illegal, false, wrong and procured one and the appellants are not bound by the same.

4. It is further submitted by learned counsel for the appellants that the Ld. Courts below have miserably failed to appreciate that the suit of the plaintiff is hopelessly barred by the limitation and he is estopped by his own act and conduct from filing the suit. The construction over the suit property which was allotted to the appellants by way of registered Gift Deed No. 4307 date 19.08.1994 and since then, they are in possession of the suit property. Hence, the right to seek possession of the suit property has extinguished as per Section 27 of the Limitation Act, 1963.



5. 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.

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

7. I find no merit in the submissions made on behalf of the appellants in view of the fact that there are categoric concurrent findings of both the learned Courts below that the plaintiff has proved himself to be owner in possession of the suit property i.e. Killa No. 87/12/24 by bringing on record voluminous documentary evidence including Jamabandi for the year 2012-2013 Ex.P1 as per which plaintiff is depicted as owner of the suit property. Needless to say, presumption of truth is attached to Jamabandi. Moreover, the same has not even been rebutted by the defendants. Thus, plaintiff is proved to be owner in possession of the suit property.

8. Furthermore, the plaintiff had produced Demarcation Report dated 21.09.2014 Ex.PW2/A, as per which it is recorded that the appellants have encroached upon the suit property. The appellants have sought to discard the said Demarcation Report Ex.PW2/A by submitting that the said Report cannot be relied upon as demarcation was not conducted in the presence of the appellants. However, it has been categorically recorded in the Demarcation Report that defendant No. 1 had refused to come present at the time of demarcation. As such,



appellants cannot take the plea that the said Demarcation Report cannot be taken into evidence; or that they are not bound by the said report.

9. It has also been argued on behalf of the appellants that they are owners in possession of the suit property by way of adverse possession. However, even the said argument of the appellants is misconceived as, merely by claiming ownership by way of adverse possession implies that appellants are admitting ownership of the plaintiff and are acknowledging the title of the plaintiff over the suit property.

10. Be that as it may, appellants have also been unable to prove adverse possession over the suit property. Defendants have only made vague pleas and no specific details are mentioned as to on which date, in what manner and how they came into possession of the suit property. Even no evidence in the form of any revenue record has been produced by the appellants to show their possession over the suit property since 1995. The defendants have made only bald statements regarding ownership and possession.

11. In fact, the stand of the defendants is that they are owners in possession of the plot No.87/12/25 which by way of registered Gift Deed No. 4307 dated 19.08.1994 Ex.D1. Whereas the suit property comprises in Killa No. 87/12/24. Clearly therefore, the two properties are distinct and different. This also establishes that the appellants are encroaching upon the suit property. They have been unable to prove the nature and factum of their possession over the suit property, let alone adverse possession.



12. Even otherwise, as per Demarcation Report dated 21.09.2014 Ex.PW2/A, the factum of encroachment on the suit property by the defendants is clearly recorded. The objection of limitation will be of no help to the appellants as, as per Section 65 of the Limitation Act, 12 years period of limitation shall commence from the date on which the plaintiff receives knowledge; which in the present case is 21.09.2014; whereas suit for possession was filed on 05.05.2015-. Hence, suit was filed within limitation.

13. Learned counsel for the appellants is unable to controvert or dispute the above said facts and findings.

14. In view of the above, no ground is made out to interfere in the concurrent judgments and decrees of the learned Courts below. The present Regular Second Appeal is hereby **dismissed**.

15. Pending applications, if any, stand disposed of.

25.09.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No