



**RSA-1283-1992 &
RSA-1288-1992 (O & M)**

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

103-2 cases.

1.

RSA-1283-1992

Date of decision:14.01.2025

SADHU SINGH (DECEASED) THROUGH HIS LRS ...APPELLANT

VS.

TEJ KAUR (DECEASED) THROUGH LRS ...RESPONDENT

2.

RSA-1288-1992 (O & M)

HARNEK SINGH (DECEASED) THROUGH HIS LRS ...APPELLANT

VS.

TEJ KAUR (DECEASED) THROUGH LRS & ORS. ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

**Present: Mr. Balbir Singh Sewak, Advocate
for the appellant(s) in RSA-1283-1992 &
for respondent No.2 in RSA-1288-1992.**

**Mr. Gurcharan Dass, Advocate
for the appellant in RSA-1288-1992.**

**Mr. Arvind Kashyap, Advocate
for respondent No.1 in both cases.**

**Respondents No.2 to 11 have been deleted
vide order dated 06.10.1994 in RSA-1283-1992.**



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SUVIR SEHGAL, J.

CM-4361-C-2024 in RSA-1288-1992

1. Counsel for the appellant states that Kuldip Kaur daughter of Harnek Singh, who is LR No.2 of the appellant, has expired and does not have any legal heir. He requests that her name be deleted from the array of parties.
2. For the reasons given in the application, it is allowed, subject to all just exceptions.
3. Name of Kuldip Kaur is ordered to be deleted from the array of parties.

CM-4369-C-2024 in RSA-1288-1992

4. This application has been filed under Order 41 Rule 27, CPC, for grant of permission to lead additional evidence by producing certified copies of judgments and decrees dated 19.01.1987 and 22.04.1992, respectively passed by the Trial Court and the first appellate court.
5. Counsel for the appellant submits that a suit for declaration and injunction was instituted by Harnek Singh against the respondents, which was accepted by judgment and decree dated 19.01.1987 and appeal preferred by Tej Kaur, respondent No.1, was dismissed on 22.04.1992. He submits that the judgment and decree has become final as respondent No.1 never challenged it by way of a second appeal before this Court. He asserts that both the Courts held that respondent No.1 did not have an absolute right in the suit property. She had a limited right in the suit property as mentioned in the Will executed by Kehar Singh, predecessor of the parties. Counsel states that Tej Kaur has



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expired on 30.01.1995 during the pendency of the instant appeal and both the judgments and decrees would have a material bearing on the decision of the instant appeal.

6. Notice of the application to the non-applicant/respondents.
7. Mr. Arvind Kashyap, counsel for respondent No.1 and Mr. Balbir Singh Sewak, counsel for respondent No.2, accept notice.
8. After hearing counsel for the parties, this Court finds that both the judgments and decrees would have a direct impact upon the litigation pending between the parties.
9. Accordingly, application is allowed. The certified copies of the judgments and decrees mentioned above are permitted to be adduced by the appellant by way of additional evidence. The appellants shall tender the certified copies of the judgments and they shall be taken into consideration at the time of determination of the matter on merits.

Main Case

10. This judgment shall dispose of both the above-noted appeals as they arise out of the same civil suit. For the sake of convenience, factual position is being taken from RSA-1283-1992.
11. Appellant-defendant No.1 is in second appeal before this Court assailing the concurrent finding recorded by two Courts, whereby the suit filed by respondent No.1-plaintiff has been accepted.
12. Dispute is qua ownership of 37 kanals 05 marlas of agricultural land situated in Village Mannpur, Tehsil and District Ropar. Plaintiff filed a suit averring that she is the daughter of Kehar Singh and the defendants are



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her brothers. One of her brothers Mohan Singh has expired and his legal representatives have been impleaded as defendants. Alleging that the defendants have forcibly taken possession of the suit land, she filed the suit for a decree of possession claiming to be its owner.

13. Upon being served, defendant No.1 filed a written statement contesting the suit pleading that the suit land was ancestral and he has 1/3rd share in it. Defendants No.2 to 4 filed a separate written statement raising various preliminary objections including that of limitation. They asserted that they are in the possession of the suit land for the last more than 15 years and have been managing it. It was denied that the plaintiff was dispossessed. They claimed that they have constructed their residential houses and have installed tubewells. Issues were framed on the basis of the pleading of the parties, who led evidence in support of their respective case. After contest, Trial Court accepted the suit by judgment dated 16.05.1987 and passed a decree for possession in favour of the plaintiff. Two separate appeals were filed by defendants, which have been rejected by a common judgment dated 22.04.1992 by the learned Additional District Judge, Ropar. Defendants have filed the instant second appeals in the above background.

14. Short submission made by counsel for the appellant is that during the pendency of the appeal, respondent No.1, who had a limited right in the suit property has expired and the matter requires re-determination in view of this development. Counsel for contesting respondent No.1 is not in a position to dispute the factual assertion.



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15. I have heard counsel for the parties and considered their submission besides examining the requisitioned record.

16. Harnek Singh, one of the appellant-defendant had filed a separate suit for declaration to the effect that he was owner of the suit land in equal share alongwith his siblings and for permanent injunction restraining respondent No.1 from alienating or transferring the suit property. After contest by respondent No.1, suit culminated in the passing of judgment and decree dated 19.01.1987, whereby the plaintiff and his brothers were held to be owners in equal share and restraint order was passed against respondent No.1. In appeal preferred by respondent No.1, learned Additional District Judge, Ropar by judgment dated 22.04.1992 found that a limited right had been given to respondent No.1 as per Will, Ex.P-1, executed by Kehar Singh. She was not found to be in possession of the suit property and it was held that she does not become its absolute owner. A limited life-time right was given to her as per the Will.

17. It is not in dispute that judgment and decree passed in the said suit has become final. It was never challenged at the hands of Tej Kaur, who has expired on 31.01.1995, as noticed above. This development has a direct bearing upon the merits of the controversy in the present appeals and needs to be taken into consideration. The certified copies of both the judgments and decrees have been permitted to be adduced by way of additional evidence and the instant matters require to be re-determined in the light of the above development.



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18. For the afore-going reasons, the judgment and decree dated 22.04.1992 passed by the first appellate court is set aside. Both the appeals are remanded to the learned District Judge, Ropar, for adjudication afresh in the light of the developments noticed above.

19. Parties are directed to appear before the learned District Judge, Rupnagar, on 17.03.2025, who may hear and decide the appeals himself or assign them to any other Court of competent jurisdiction.

20. As the main appeals have been decided, pending applications, if any, are also disposed of.

14.01.2025
sheetal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No