

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

109

RSA-1684-2019 (O&M)

Date of decision: 06.11.2025

Paramjit Singh

...Appellant(s)

Vs.

Assish Goyal and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. R.S.Rangpuri, Advocate for the appellant.

NIDHI GUPTA, J.

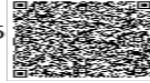
CM-4508-C-2019

Prayer in this application filed under Section 151 CPC is for condonation of delay of 136 days in refiling the accompanying appeal.

2. For the reasons mentioned in the application which is duly supported by an affidavit of the learned counsel for the applicant/appellant, the same is allowed and delay of 136 days in refiling the accompanying appeal is condoned.

RSA-1684-2019 (O&M)

Present Second Appeal has been filed by defendant No.5 against the concurrent judgments and decrees of the learned Courts below, whereby suit filed by the plaintiffs/respondents No.1 and 2, for declaration and permanent injunction, has been decreed by both the Courts below.



2. Brief facts of the case are that the plaintiffs had filed a suit seeking declaration to the effect that they are owners in possession of the shop No.65, measuring 16'x65' in dilapidated condition bounded as under:-

East: Harsh Chander 105'

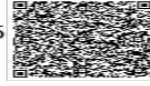
West: Roop Lal and his wife Suresh Rani 105'

North: Street 16' Concrete Built Road,

Sourth: Street 16' Bitumen Mateled Road, situated in Mandi Sachdev Ganj Lakhewali, Tehsil Sri Muktsar Sahib;

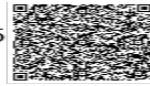
and suit for permanent injunction restraining defendants from interfering into the peaceful possession of the plaintiffs over the suit property.

3. The facts as pleaded in the plaint were that a grain market by the name of Sachdev Ganj was carved out in the year 1940-41 at village Lakhewali by Tulsi Ram, Dhannu Mal, Ram Nath and Kishan Singh, predecessor of the defendants. It was stated that Tulsi Ram, Dhannu Mal and Ram Nath were not having cordial relations with Kishan Singh. As such, they filed Civil Suit No. 102/238 of 1950 titled as **Tulsi Ram etc. vs. Kishan Singh**, before the Sub Judge, Ferozepur for partition of the remaining joint property by metes and bounds; in which after contest preliminary decree was passed on 11.07.1951. Thereafter, Local Commissioner was appointed who submitted his detailed report in the Court, mentioning the details of the properties which fell to the share of each person; on the basis of which schedules were prepared and site plan Ex.C-1 was submitted, which was signed by the said four persons and counter signed by the Local Commissioner; on the basis of which final decree dated 24.10.1951 was passed. The site plan Ex.C1 comprises of



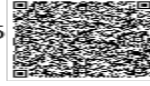
whole property of Sachdev Ganj Mandi, Lakhewali and each shop and plot was marked by serial numbers; and shop No. 65 to 69 fell to the share of Tulsi Ram as per above said partition. It was further averred that Tulsi Ram remained owner in possession of plot No. 65 and transferred the same to Lajwanti wife of Chuni Lal by way of registered Sale Deed dated 27.07.1966. Lajwanti had died and her property was inherited by Krishan Lal, Raj Kumar, and Manohar Lal, who sold the same to the plaintiffs vide registered Sale Deed dated 10.03.2008 and delivered possession to the plaintiffs in dilapidated condition alongwith electric and water connection.

4. It was further pleaded that there were consolidation proceedings in the village and total area under Sachdev Ganj Mandi was kept reserved; and new numbers in Jamabandi were wrongly carved out due to which certain wrong entries had appeared in Jamabandi. It was averred that shops were purchased by different persons who are running Commission Agents shops; and Jamabandi, if any, that came into existence had lost its significance and entries in the Jamabandi were null and void. It was further pleaded that plaintiffs are bonafide purchasers for consideration of the suit shops without notice of any title of defendants and are in possession of the suit property. As such, title of the plaintiffs is protected under Section 41 of the Transfer of Property Act. However, the defendants had threatened the plaintiffs few days back. It was further pleaded that plaintiffs had sold the property by way of Sale Deeds dated 19.11.2012 to Anju Rani who re-transferred the same to the plaintiffs vide two registered Sale Deeds dated 23.04.2013. The plaintiffs had got

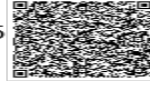


sanction letter for constructing the building for Punjab National Bank, and sanction letter was delivered to the defendants as earlier the building was owned by Bhupinder Kaur defendant was on lease with the Punjab National Bank. It has been further stated that all the defendants are successors-in-interest of Kishan Singh and Kishan Singh was one of the founder of Mandi Sachdev Ganj. Hence present suit was filed on 07.10.2014.

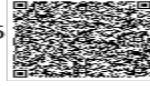
5. Upon notice, defendants No. 1 to 5, 7 and 8 appeared and resisted the suit by filing joint written statement *inter alia* stated that the suit was barred by limitation. It was stated that in fact the plaintiffs filed a civil suit titled as **Ashish Goyal etc Versus Paramjit Singh etc.** Ex.P21 (available at page 21 of LCR) for permanent injunction against the answering defendant No.5 Paramjit Singh, his two brothers Lal Singh, Zora Singh, and Gurcharan Singh who is husband of answering defendant No.1 and father of answering defendants No.2&3; on the basis of sale deed No.495 dated 10.03.2008 in which the plaintiffs claimed that they are owners in possession of land measuring 6 Marlas 2 Sarsahi, 56/378 share out of total land measuring 2 Kanal 2 Marlas comprised in Khewat No.552 Khatauni No.867 and Khasra No.658(2-2) as per jamabandi for the year 2003-2004 of the revenue estate of Village Lakhewali and the sides are same as mentioned in the present suit. It was further stated that the answering defendant No.5 Paramjit Singh filed suit for permanent injunction against the plaintiffs titled as **Paramjit Singh Versus Ashish Goyal etc.** Ex.P34 (available at page 209 of LCR) and in reply of that suit



the plaintiffs in para No.1 of the preliminary objections of written statement filed by the present plaintiffs mentioned that "the defendants No.1&2 undertakes to demolish the building constructed on their plot in case the answering defendants are not found to be owners of this property Plot No.65, which is a part of Khasra No.658 and mutation to this effect was duly sanctioned in favour of Krishan Lal etc, and thereafter in favour of answering defendants which find mention in the copy of jamabandi for the year 2003-2004. It was further stated that in fact the property of the plaintiffs is in Khasra No.658(2-2) of Village Lakhewali and the sides mentioned by the plaintiffs in this suit as well as in the previous suit are wrong. The sides mentioned by the plaintiffs is the property of answering defendants, which bearing Khewat No.423, Khatauni No.672 Khasra No.660(0-6), situated in Village Lakhewali, as per the jamabandi for the year 2003-2004. The suit titled as Ashish Goyal etc Versus Paramjit Singh etc was withdrawn by the plaintiffs on 04.10.2014 at the stage when final arguments were already completed. On merits it is stated that no Mandi in the name of Sachdev Ganj was carved out in the year 1940-41 at Mandi Lakhewali. In fact Tulsi Ram, Dhannu Mal, Ram Nath and Krishan Singh predecessor of the defendants made the shops in their own property in the shape of market at Village Lakhewali. It has been further stated that owners of property of Lakhewali gave their land to Mandi Board for Mandi Board Office and for auction platform for selling of crops, which is now in possession of Mandi Board and the property of Mandi Board also reflected in Jamabandi. It was further stated that the property



of above said four persons was partitioned and after partition the order of partition was implemented in the jamabandi and now the above said four persons have their separate shares shown in the Jamabandi as per partition. It was stated that after partition all the property numbers were incorporated in the revenue record after consolidation and new numbers came into existence in the jamabandi. It was stated that shops were constructed by the above said four persons and the houses were constructed on the property which was sold by the above said persons except the predecessor of the answering defendants. Till date jamabandi is in existence and the property purchased by the plaintiffs is also as per jamabandi for the year 2008-2009. It was stated that Tulsi Ram was not owner of plot No.65. All the property of the Village Lakhewali was mentioned in Jamabandi and if Tulsi Ram had any property it was mentioned in the Jamabandi and the wrong act of Tulsi Ram regarding transfer of plot No.65, which was not in existence on 27.07.1996 is not binding on the defendants. The sale deed dated 10.03.2008 was without any numbers. It was stated that after consolidation proceedings all the property of Village Lakhewali was given new numbers in revenue record and no area was kept reserve at Village Lakhewali. It has been further stated that the property purchased by the plaintiffs on 24.04.2013 bearing Khewat No.612, Khatauni No.930, Khasra No,658(202) as per jamabandi for the year 2008-09 situated in the area of Village Lakhewali and the sides mentioned by the plaintiffs in this suit as well as in the previous suit are wrong. The sides mentioned by the plaintiffs is the property of



answering defendants, which bearing Khewat No.423, Khatauni No.672 Khasra No.660(0-6), situated in Village Lakhewali, as per jamabandi for the year 2003-2004. While denying other averments of the plaint, a prayer for dismissal of the suit has also been made.

6. Plaintiffs filed replication re-asserting the averments made in the plaint and denying those made in the written statement.

7. On the basis of pleadings of the parties, following issues were framed:-

“1. Whether plaintiffs are entitled to relief for declaration as prayed for?OPP

2. Whether plaintiffs are entitled to relief of permanent injunction as being prayed for?OPP

3. Whether cause of action has arisen to the plaintiff to file the present suit ?OPP

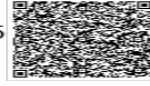
4. Whether said suit is barred by law of limitation?OPD

5. Whether plaintiffs have concealed the material facts from the Court?OPD

6. Whether the property of the plaintiffs is in Khasra No.658(2-2) of Village Lakhewali and the sides mentioned by the plaintiffs are wrong?OPD

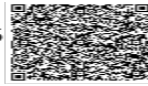
7. Relief.”

8. Upon appraisal of the pleadings and the evidence led by the parties, vide judgment and decree dated 08.02.2017, the learned Additional Civil Judge (Senior Division), Sri Muktsar Sahib had decreed the suit of the plaintiffs with costs *“to the effect that the plaintiffs are owners in possession of Shop. No.65, measuring 16'x 105' bearing boundaries as fully detailed in the head note of the plaint situated in Mandi Sachdev*



Ganj Lakhewali, Tehsil Sri Muktsar Sahib, and the defendants have no right or interest in the said property and entries in the Jamabandi for the year 2008-2009 are wrong, illegal and void and the Jamabandi has lost its significance due to the carving out of Mandi and the property is no longer under cultivation and stands built up and entries are null and void and have been wrongly prepared during consolidation proceedings and the defendants are permanently restrained from interfering into the peaceful possession of the property mentioned in the head note of the plaint or evicting them forcibly or transferring the property to third person by sale, gift, mortgage or by suffering a court decree.” The appeal filed by defendant No.5 was dismissed with costs by the learned Additional District Judge, Sri Muktsar Sahib vide judgment and decree dated 17.05.2018. Hence, the present second appeal by defendant No.5.

9. Learned counsel for the appellant assails concurrent findings of learned Courts below by submitting that the Id. courts below have failed to go into the actual facts and failed to appreciate that had there been partition of the suit property that would have reflected in the jamabandi. Since the Mandi was alleged to be carved out in the year 1940, it is highly unbelievable that for such a long period entries in the jamabandi regarding partition would not be reflected by the concerned party, therefore the plaintiffs-respondents have failed to connect their property with the suit property, as such the findings of Id. courts below are liable to be set aside.

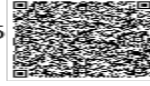


10. Learned counsel for the appellant submits that the Id. courts below have failed to observe that as per law, the plaintiffs-respondents were required to stand on their own legs and to prove their case at its own, by producing cogent and convincing evidence and they were not at all required to take any benefit from the evidence of the defendants nor any such benefit can be legally given to him. The Id. courts below have failed to consider that the evidence led by the plaintiffs is beyond pleadings and the same cannot be read into evidence. But the Id. courts below have wrongly relied upon the oral and documentary evidence of the plaintiffs. Thus, the findings of both the courts below are perverse, arbitrary and based on misreading of evidence on record, hence are liable to be set aside.

11. It is accordingly prayed that the present appeal be allowed; and the impugned judgments and decrees of the Courts below be set aside.

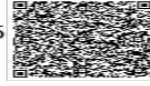
12. No other argument is raised on behalf of the appellant/defendant No.5. I have heard learned counsel and perused the case file in great detail. I find no merit in the submissions advanced on behalf of the appellant.

13. A perusal of the record of the case shows that plaintiffs have succeeded in proving their case beyond doubt as very comprehensively, coherently and successfully encapsulated by the Court's below in their respective judgments. The relevant findings of the Trial Court are

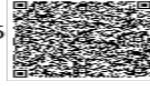


contained in para 11 of the judgment dated 08.02.2017, which reads as under: -

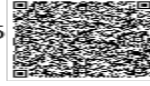
“11. Now by way of present suit, the plaintiffs are claiming declaration to the effect that they are owners in possession of Shop No.65 as mentioned in the head note of the plaint situated at Mandi Sachdev Ganj Lakhewali and that the entires in the Jamabandi for the year 2008-2009 are illegal and void and has no effect on the rights of the plaintiffs over the suit property. The plaintiffs are further claiming relief of permanent injunction restraining the defendants from interfering into the peaceful possession of the plaintiffs over the suit property. After going through the written statement filed by the defendants, it is denied that Grain Market in the name of Sachdev Ganj was carved out at Village Lakhewali in the year 1940-41. However, this fact has not been categorically denied by the defendant in his cross-examination. After going through the application dated 08-04-1950 moved by Tulsi Ram against Kishan Singh for partition Ex.P16, it transpires that Civil Suit for partition was filed by Tulsi Ram and vide Judgment dated 11-07-1951 Ex. P17 passed by the then Sub Judge 1st Class, Ferozepur, a Preliminary Decree was passed with regard to Khasra Numbers mentioned in the application Ex.P16 and Shri Chander Mohan, Advocate, Ferozepur was appointed as Local Commissioner to suggest the mode of partition. Further more, after going through the Orders Ex.P18 to Ex.P23, a Final Decree was passed by the then Id. Sub Judge 1st Class, on the basis of Report Ex.P25 submitted by the Local Commissioner, the Punjabi Translation of which has been proved as Ex.P26. As per Sale Deed dated 28-07-1966 proved on record as Ex.P10/A executed by Tulsi Ram in favour of



Lajwanti, the Plot No.65 was sold by him in favour of Lajwanti by mentioning its specific sides. It is pertinent to mention that no Khasra Number was mentioned in the said Sale Deed. It was only to be so because the land had already been partitioned on the Order of Sub Judge Ist Class, as already discussed above. Furthermore, after going through the testimony of PW4 Gurinder Arora, who had proved on record the Sale Deed dated 10-03-2008 Ex. P1. The said Sale Deed has been executed by Krishan Lal, Raj Kumar and Manohar Lal in favour of plaintiffs Ashish Goyal, and Suman Lata. The said Sale Deed has also been executed after mentioning specific boundaries as detailed therein and no mention whatsoever of any Khasra Number has been made therein. Further more, as per copy of Sale Deeds dated 19-11-2012 Ex.P13/A and Ex. P14/A executed by plaintiffs in favour of Anju Rani, it transpires that property in dispute was sold by them in favour of Anju Rani by mentioning the specific boundaries as mentioned in the Sale Deed Ex.P1. As per copies of Sale Deed dated 25-04-2013 proved on record as Ex.P8/A and Ex.P9/A. The plaintiff again re-purchased the property from Anju Rani by mentioning specific boundaries. The boundaries in all the referred above said Sale Deeds tally with each other. Rather DW1 Bhan Chand, Revenue Patwari in his cross-examination has categorically admitted that as per Jamabandi for the year 1961-62 Ex. PX Khasra Number 658 was carved out in lieu of old Khasra Number 1886/1481. It is further pertinent to mention that at the time of submitting Report Ex.P25 by the Local Commissioner suggesting the Mode of Partition, he also submitted the site plan Ex.P33 and accordingly the plots were carved out in the the area of Grain Maket Sachdev Ganj. Even otherwise, DW1 Bhan Chand Revenue Patwari has admitted in his cross-



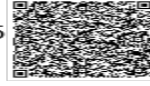
examination that he has only deposed as per record, but actually shops and houses have been carved out in the area in which the property in dispute is situated and has further admitted that actually position at the spot does not tally with the revenue record produced by him. Similar is the reply of defendant Dhanwant Singh examined as DW2. It is pertinent to mention that said witness is cited as defendant No.9 in the present suit but has been proceeded against exparte on 17-03-2015. Therefore, Dhanwant Singh did not prefer to appear before this Court despite service to file written statement challenging the averments put forth in the plaint and thus his testimony as DW2 is of no consequence. Moreover, as per para No.6 of the written statement, it is admitted that partition took place. It is further admitted that the shops and houses were constructed by Tulsi Ram and others after partition. From the Sale Deeds already discussed above, it is proved on record that Mandi Sachdev Ganj came into existence from the year 1940-41 and Sale of the property is being made in the said year is made by referring to the shops/houses number including boundary and by not giving the detail of the revenue record. It is settled principle of law that the entries in the revenue record are not substantive piece of evidence as far as detail of the properties is concerned. Therefore, in the present case the substantive piece of evidence is the Sale Deed proved by the plaintiffs in their favour. Moreover, where the entries in the revenue record are against the facts actually existing at the spot, same lose their significance. Reliance in this regard can be placed upon **Daropdi Versus Kanhiya & Ors., 2007(1) Civil Court Cases 73(P&H)**, whereby Hon'ble Punjab &Haryana High Court has observed that "The plaintiff appellant was, thus, rightly, not held to be in possession of the disputed



*property and Kanhiya defendant-respondent was held to be in possession of the same. In this view of the matter, entries in jamabandi etc. lose significance altogether as the same are against facts. Otherwise also, such entries are relevant when land to which those pertain is under cultivation, and not when a residential house is constructed thereon". Similar observations have been made by Hon'ble Andhra Pradesh High Court in **2009(1) Civil Court Cases 766 (A.P.)**. Keeping in view the aforesaid discussion, all these issues are decided in favour of the plaintiffs and against the defendants."* (Emphasis added)

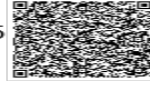
14. The said findings have been affirmed by learned First Appellate Court as follows:-

"14.....It also has come into the evidence that one of the co-sharer Tulsi Ram had moved an application for partition dated 08.04.1950 (Ex.P16) against co-sharer Kishan Singh. Civil suit for partition was filed by Tulsi Ram and same ended up in passing of preliminary decree (Ex.P17) passed by the Court of the then Sub Judge First Class, Ferozepur. Thereafter, Chander Mohan, Advocate from Ferozepur was appointed as Local Commissioner to suggest mode of partition and report (Ex.P25) (Punjabi translation version thereof is proved as Ex.P26) was submitted by Local Commissioner. Local Commissioner also submitted site plan (Ex.P33) which was duly approved and adopted by Court and the final decree for partition accordingly was passed vide judgment dated 24.10.1951. In other words, after passing of final decree, in which site plan (Ex.P33) was made part, the entire area of Mandi Lakhewali was no longer identifiable by Khasra numbers etcetera. The revenue department has failed



to implement this site plan in the revenue record despite the fact that no higher Court of competent jurisdiction ever set aside the final decree dated 24.10.1951, after which all the co-sharers were given possession of their separate shares.

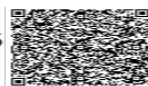
15. Further, as per sale deed dated 28.07.1996 (Ex.P10/A) Lajwanti had purchased a plot number 65 from Tulsi Ram and no Khasra number was mentioned in the sale deed for this simple reason that Tulsi Ram had separated his share in terms of Final Decree in which site plan was made part thereof and property was now identifiable by specific plot numbers and no more by Khasra numbers. It has come into evidence that Lajwanti has died and her legal heirs namely Krishan Lal, Raj Kumar and Manohar Lal sold the land in favour of the respondent no.1 and 2 vide sale deed dated 10.03.2008 (Ex.P1). In this sale deed also, there is no mention of any Khasra number and only specific boundary has been detailed. Thereafter, vide sale deeds (Ex.P13/A and Ex.P14/A) dated 19.11.2012, the respondents sold the land in favour of Anju Rani by mentioning specific boundaries. This land was again re-purchased by respondents vide sale deeds (Ex.P8/A and Ex.P9/A) dated 25.04.2013. Thus, it sufficiently stands proved that property in the hands of respondent no.1 and 2 has come out of land owned by Tulsi Ram, which he has got in partition. Obviously, appellant who is one of the legal heirs of Kishan Singh (one of co-founders of Mandi) has got no concern with the same as Kishan Singh never got this property in his share. Revenue record obviously do not reflect the final decree passed by Civil Court of competent jurisdiction and this fact is also so admitted by Revenue Patwari Bhan Chand (DW-1) who has admitted in his cross examination that shops and houses have been carved out in



the area and further admitted that situation existing at the spot does not tally with the revenue record produced by him.

16. *Thus, from the evidence on file, it is sufficiently proved on record that partition took place between co-sharers who had carved out Mandi wherein shops and houses have been constructed and after partition, the property was identifiable by their specific numbers given as reflected in site plan (Ex.C33). The entries in the revenue record are against the actual and factual position existing at the spot and obviously, these entries in the revenue record have got little significance in the light of judgment dated 24.10.1951 and site plan (Ex.P33). In case titled as **Dropdi vs. Kanhiya and Ors 2007 (1) Civil Court Cases 73 (P&H)**, it has been held that the Jamabandi entries are relevant only when an area, to which they pertain, is under cultivation and not when a residential house is constructed thereon. The appellant is not shown to have got any concern with the suit property of the respondent no.1 and 2 as respondent no.1 and 2 are owners of the same having purchased the same through registered sale deeds.”*

15. Thus, from the above concurrent findings, it is clear that the plaintiffs were able to prove the sale deeds executed in their favour; that as per the evidence of the defence witnesses, the revenue record did not tally with the position on inasmuch as the revenue record did not reflect the construction of shops and still incorrectly bore the old khasra Numbers which were no longer in existence. The learned counsel for the appellant is unable to dispute or controvert the above said concurrent findings.



16. Even otherwise, present Second appeal is liable to be dismissed on the short ground that this Court in Regular Second Appeal has limited jurisdiction to interfere in the concurrent findings of facts returned by the learned Courts below. The Hon'ble Supreme Court in ***M/s. Shivali Enterprises v. Godawari (Deceased) (SC): Law Finder Doc Id # 2034559*** has held that no matter howsoever incorrect or grossly erroneous the concurrent findings of the learned courts below may be, this Court in the Second Appeal can interfere in the concurrent findings only where there is an error in law or procedure. In the present case, no such error in law and procedure has been made out by learned counsel for the appellants.

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

18. Keeping in view the undisputed position in law, I find no ground is made out to interfere in the impugned judgments and decrees of the learned Courts below. The present Regular Second Appeal is hereby **dismissed.**

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

06.11.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

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