



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

1. RSA-2814-1999 (O&M)
Reserved on :-11.11.2025
Pronounced on:-17.11.2025.
Date uploaded on :- 18.11.2025

Bhoor Mal (Since Deceased) through his LRs ... Appellant

Versus

Sukhia and Others ... Respondents

2 RSA-2815-1999 (O&M)

Bhoor Mal ... Appellant

Versus

Urmila and others ... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Mr. Rajinder Goel, Advocate
for the appellant.

Mr. Sudhir Aggarwal, Advocate
for the respondents.

VIRINDER AGGARWAL, J.

1. This consolidated order governs the adjudication of the above-captioned Regular Second Appeals (for short to be referred as “RSAs”), each arising from an identical factual and legal matrix. Given the commonality of parties, the coextensive nature of the impugned judgments and decrees, and the consent of learned counsel for joint consideration, these appeals are being disposed of collectively in the interest of judicial economy, uniformity in legal interpretation, and procedural efficiency.

2. At the instance of learned counsel for the parties in both RSAs, the factual matrix for the purposes of this consolidated order has been



carefully extracted from the records of both appeals, as it presents the most complete, accurate, and coherent account of the material facts. While the issues in each appeal may differ, the facts so delineated are adopted collectively to constitute the representative factual foundation for the adjudication of the present matters, ensuring a comprehensive and uniform basis for determination.

3. The appellants/defendants in the above-captioned RSAs have filed the present appeals assailing the impugned judgments and decrees rendered by the learned Appellate Courts. Specifically, they challenge the judgment and decree dated 08.06.1999 of the learned District Judge, Gurgaon, which reversed the well-reasoned judgment dated 13.08.1998 of the learned Civil Judge (Junior Division), Nuh. Through these RSAs, the appellants seek judicial scrutiny and appellate correction of the findings, reasoning, and directions recorded in the impugned orders, contending that the First Appellate Court erred both in law and in fact, and that its conclusions are untenable, unsustainable, and vitiated by misappreciation of evidence and applicable legal principles.

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4. A succinct recapitulation of the material facts giving rise to the present appeals is set forth herein. The narrative has been carefully structured to include only those circumstances directly pertinent to the issues under adjudication, thereby ensuring clarity, coherence, and precision in the factual matrix:-

“The plaintiff’s case, succinctly stated, is that the defendants have been incorrectly recorded as owners in



possession of the agricultural land comprising Khewat No. 1390 min, Khata No. 1505, Rect. No. 22, Killa No. 14 (7 Kanals 10 Marlas) situated within the revenue estate of Village Indri, Tehsil Nuh, District Gurgaon.

It is averred that the plaintiff has been in continuous, open, and cultivating possession of the suit land since 1964–65 as its exclusive owner, having purchased the same orally from the defendants for valuable consideration, whereafter possession was delivered. Though such oral sale was reflected in the revenue record, the defendants' names remained in the ownership column due to inadvertent omission.

The plaintiff claims to have been in exclusive possession for over four decades, improving the land and holding it as Bashre Malkan Baa Wajah Bai, thereby acquiring ownership by custom and, in the alternative, by adverse possession. The defendants' alleged attempts to disturb his long-settled possession on the strength of erroneous revenue entries have constrained the filing of the present suit for declaration and injunction. Hence the suit."

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5. A succinct yet comprehensive narration of the material facts, crafted to ensure clarity, coherence, and precision in the factual matrix, is delineated as under:-

"The plaintiff's case, succinctly stated, is that the defendants have been erroneously recorded as owners in



possession of the agricultural land comprising Khewat No. 836, Khata No. 918/919, Rectangle No. 22, Killa No. 15, measuring 8 kanals, situated in the revenue estate of village Indri, Tehsil Nuh, District Gurgaon.

It is asserted that the plaintiff has been in continuous, exclusive, and cultivating possession of the suit land since 1964-65, exercising all rights of ownership. Prior thereto, the plaintiff had been in hostile possession within the knowledge of the defendants, and during the said year, purchased the suit property through an oral sale for valid consideration. Though the transaction was reflected in the revenue record, the defendants' names were inadvertently retained in the ownership column.

The plaintiff claims to have been in possession as Bashre-Malkan-Baa-Wajah-Bai, having invested substantial sums in improving the land's fertility. It is further averred that, in accordance with local custom, long-standing cultivators like the plaintiff have acquired proprietary rights by virtue of occupancy and adverse possession, and that the defendants, having never received rent, are estopped from disputing his ownership. Hence the suit."

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6. The defendants, upon being served, filed a written statement contesting the suit and raising preliminary objections regarding its



maintainability, the plaintiff's locus standi, absence of cause of action, estoppel, non-joinder of necessary parties, and lack of jurisdiction of the Court.

6.1. On merits, the defendants categorically denied that the plaintiff had ever been in possession of the suit land or that any oral sale had taken place in 1964–65 as alleged. They further contended that the plaintiff cannot simultaneously claim ownership on the basis of occupancy rights and adverse possession, both being mutually destructive pleas. The defendants asserted that they themselves have been in actual cultivating possession of the land throughout and accordingly prayed for dismissal of the suit with costs.

7. The appellant/plaintiffs filed a replication wherein the material averments of the plaint were reiterated and reaffirmed, while the assertions and defenses raised by the appellants/respondents were specifically traversed. Upon consideration of the pleadings and documents on record, the Civil Court framed the following issues for adjudication, with a view to comprehensively determining the respective claims and defenses arising in the present matter:-

1. Whether the plaintiff is owner in possession of the suit property and the revenue record is liable to be accordingly corrected? CPP
2. Whether the suit of the plaintiff is not maintainable in the present form? OPD
3. Whether the plaintiff has no locus-standi to file the present suit? OPD.
4. Whether the plaintiff has got no cause of action for filing the present suit? OPD



5. Whether the plaintiff is estopped from filing the present suit on account of their act conduct and acquiescences? OPD.
6. Whether the suit of the plaintiff is bad for non -joinder and misjoinder of the necessary parties? OPD.
7. Relief.
8. Both parties were afforded full and ample opportunity to adduce oral and documentary evidence in support of their respective claims and defenses. Upon the conclusion of the trial, and after hearing learned counsel for the parties, the learned Civil Judge (Junior Division), Nuh, decreed the suits in favor of the respondents/plaintiffs.
- 8.1. Aggrieved by the judgment and decree so rendered, the appellants/defendants preferred appeals before the learned First Appellate Court, Amritsar. The learned Appellate Court, upon a comprehensive reappraisal of the evidence and findings of the Trial Court, set aside the trial Court's judgment and decree, and dismissed the suits, holding that the appellant/plaintiff had been inducted as a tenant and could not be dispossessed except in accordance with lawful procedure. Notably, while such a finding was recorded in the reasoning, the Appellate Court failed to incorporate any corresponding relief in the operative relief clause, thereby creating a disconnect between the judicial reasoning and the relief actually granted.
- 8.2. The concurrent proceedings, therefore, highlight issues concerning tenancy rights, procedural compliance, and the precise scope of relief, which form the subject matter of the present appeals.



9. Challenging the impugned judgment and decree of reversal rendered by the learned First Appellate Court, the appellant/plaintiff has instituted the present appeals, which were admitted to regular hearing. Notice of the appeals was duly served upon the respondents, who appeared through their respective counsel and actively contested the proceedings. In the course of hearing, the complete records of the learned Courts below were requisitioned, examined, and placed before this Court for a thorough and considered adjudication.

9.1 Learned counsel for the appellant/plaintiff contended that the learned First Appellate Court committed a juridical illegality and material irregularity. It was specifically recorded by the Appellate Court that the appellant-plaintiff was inducted as a tenant in possession and could not be ejected or dispossessed except in accordance with due process of law. However, despite recording such a significant finding, the Appellate Court failed to reflect the same in the operative relief clause of the decree. Learned counsel argued that the appeal of the appellant-plaintiff ought to have been allowed, with relief framed consistently with the judicial findings, and that this omission vitiates the impugned judgment, warranting intervention by this Court to ensure proper and effective relief consonant with law.

10. Learned counsel for the respondents/defendants, in opposition, contended that the findings of the learned Courts below are free from any illegality, perversity, or infirmity. It was submitted that the appellant/plaintiff's suit was predicated solely upon a claim for declaratory relief, and no injunction was specifically sought; accordingly, the learned



Courts below rightly declined to grant injunctive relief, and their conclusions are in consonance with the pleadings and the scope of the suit.

11. Having meticulously perused the record and considered the submissions of learned counsel at length, this Court notes that the findings recorded by the learned First Appellate Court regarding the possession of the appellant/plaintiff are encapsulated in paragraph 19 of the impugned judgment, which is reproduced below for ease of reference and clarity. These findings form the crucial basis for adjudicating the contentions raised in the present appeals and assessing the propriety and correctness of the conclusions drawn by the lower Appellate Court:-

19. 'The submission made by the counsel for the plaintiff in this regard cannot be accepted because I have already noticed the documentary and oral evidence adduced on record and have come to the conclusion that plaintiff was never put in possession over the suit land in the year 1964-65 as per case setup by him in the plaint. The fact remains that defendants have admitted the possession of plaintiff and that of Daya Ram over the suit property from October, 1994 to March, 1996. Therefore, in view of this admission of the defendants contained in the application Ex.P10 it has to be held that plaintiff has been in possession of suit land under the defendants from March, 1994 onwards and is entitled to retain the possession over the suit land till he is dispossessed from the suit property in accordance with law. The findings of the learned trial Judge for the reasons recorded above in respect of issue no.1 are accordingly set aside.'

12. In the instant case, the appellant/plaintiff has advanced mutually inconsistent and contradictory pleadings, asserting ownership of the suit land on multiple, incompatible bases: first, by virtue of an oral sale-deed,



secondly, as an occupancy tenant claiming ownership rights, and thirdly, by asserting that having perfected title through adverse possession. Once a party asserts ownership based on a valid sale-deed, it is impermissible to simultaneously claim title by adverse possession, as such a claim is inherently inconsistent with the express recognition of ownership under a conveyance.

12.1. This principle has been unequivocally upheld by the Hon'ble Supreme Court in **Kesar Bai vs. Genda Lal & Anr., Civil Appeal No. 7129 of 2022**, decided on **14.10.2022**, wherein it was held that a party cannot rely on adverse possession to bolster a claim of ownership already predicated on a sale or transfer, as the two doctrines are legally incompatible and mutually exclusive. Consequently, the appellant/plaintiff's attempt to invoke multiple, contradictory bases for ownership cannot be countenanced and must be rejected as legally untenable, relevant para is as under:-

“The High Court has specifically observed and held that the plea of ownership based on sale deed and plea of adverse possession, both, are contrary to each other and the plaintiffs cannot be permitted to take both the pleas at the same time. Therefore, even as per the High Court, the claim of the plaintiffs on the basis of the adverse possession was not tenable. In that view of the matter and once the substantial question of law on adverse possession was held in favour of the appellant-original defendant No.1 and the title/ownership claimed on the basis of the Sale Deed dated 31.08.1967 (Ex.P.1) was negated by all the Courts below, thereafter the possession/alleged possession of the plaintiffs could not have been protected by passing a decree of permanent injunction in favour of the plaintiffs.’



13. The case of the appellant/defendant arises from the same factual matrix as considered by the learned Courts below. Upon careful scrutiny of the pleadings, evidence, and relevant legal principles, including the binding precedents laid down by the Hon’ble Apex Court, it is evident that the appeal lacks any substantive merit. The contentions raised by the appellant/defendant are wholly untenable and devoid of legal foundation, and the findings recorded by the Courts below are neither perverse nor legally infirm. Appellant is not entitled to protection of his possession by prohibitory injunction as was held by Hon’ble Apex Court in similar circumstances. Accordingly, the present appeal is hereby dismissed, with no order as to costs, affirming the correctness and propriety of the impugned judgments and decrees of the Courts below.

14. Since the principal matter(s) has been finally adjudicated on merits, all pending miscellaneous application(s), if any, shall stand disposed of accordingly, as no separate orders are warranted. No further directions are called for in view of the final disposal of the main case.

15. A copy of this judgment shall be duly placed on the record of the connected matter to facilitate ready reference and to ensure its effective implementation and compliance in all consequential proceedings.

17.11.2025
Gaurav Sorot

(**VIRINDER AGGARWAL**)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No