



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

(210)

RSA No. 567 of 2001(O&M)**Date of Decision: 14.11.2025**

Sohan Singh (Since Deceased) Through LRs & others

...Appellants

Versus

Charan Singh & others

...Respondents

CORAM : HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present : Mr. Manveen Pheruman, Advocate for
Mr. D.S. Pheruman, Advocate
for the Appellants.

Mr. Baldev Raj Mahajan, Senior Advocate with
Mr. Nikita Goel, Advocate and
Mr. Mayank Vashishth, Advocate
for the Respondents.

VIRINDER AGGARWAL, J.(ORAL)

1. The instant Regular Second Appeal (for short to be referred as “RSA”) has been instituted by the appellant–plaintiff to challenge the judgment and decree dated 26.09.1996 passed by the learned Civil Judge (Junior Division), Amritsar, as affirmed by the learned Additional District Judge, Amritsar, on 21.08.2000. By the impugned judgments, the suit instituted by the appellants for possession of the land measuring 63 Kanals 11 Marlas was dismissed. The question that arises for consideration is whether the concurrent findings recorded by the Courts below suffer from any perversity or legal infirmity warranting interference by this court.

**BACKGROUND FACTS**

2. The facts necessary for adjudication are that the land in dispute was originally owned by one Hazara Singh son of Santa Singh. It is the admitted case of the parties that Hazara Singh had mortgaged the suit land on 16.12.1925 in favour of Gurdit Singh and had subsequently executed a sale deed dated 11.03.1926 in favour of Kartar Singh (defendant no.1). The predecessors-in-interest of the present appellants had instituted a declaratory suit in the year **1927**, challenging the aforesaid alienations under the then prevailing **customary law**. The said suit culminated in a judgment dated **27.04.1928** passed by the learned Additional District Judge, Amritsar, declaring that the mortgage and sale shall not affect the **reversionary rights** of Hakam Singh and Makhan Singh (predecessors of present appellants/plaintiffs) after the death of Hazara Singh. Relying upon this decree, the present appellants filed the suit for possession, asserting that Hazara Singh had died on 27.11.1987 and that they, being his reversioners, had become entitled to possession of the property.

3. On notice, the respondents/defendants appeared through counsel and contested the claim by filing a written statement. They contested the suit and pleaded that suit is time barred and defendants had become the owners of the suit land by the efflux of time and plaintiff have no interest in the suit land. They further disputed the alleged death of Hazara Singh and it was asserted that Hazara Singh was still alive and that the alleged death certificate produced by the plaintiffs was forged. It was further contended that the plaintiffs had no cause of action and that the land in dispute was not proved to be the same land which had been mortgaged or sold by Hazara Singh.



4. The appellant-plaintiff thereafter filed a replication, wherein the allegations set forth in the written statement were specifically traversed and the pleadings contained in the plaint were emphatically reaffirmed. Upon a meticulous examination of the pleadings and the competing claims of the parties, the Court proceeded to frame the following issues for determination, with a view to securing a precise, coherent, and legally structured adjudication of the controversies arising in the matter:-

“1. Whether the plaintiffs are entitled to the possession of the land in dispute as prayed for? OPP

2. Whether the suit of the plaintiffs is time barred? OPD

3. Whether the defendants have become owners of the suit land by operation of law and efflux of time? OPD

4. Relief.”

5. Both parties were afforded full and adequate opportunity to adduce evidence in substantiation of their respective claims and defences. Upon the culmination of the evidentiary proceedings, and after hearing learned counsel for the parties at length, the learned Civil Judge,(Junior Division), Amritsar, proceeded to dismiss the suit. Aggrieved by the judgment and decree so rendered by the learned Trial Court, the appellant–plaintiff preferred an appeal before the learned Additional District Judge, Amritsar. The said appeal, however, met the same fate, as the learned First Appellate Court, upon a comprehensive reappraisal of the record, affirmed the findings and decree of the learned Trial Court and consequently dismissed the appeal.

6. The appellant has instituted the present appeal challenging the concurrent judgments and decrees rendered by the learned Courts below. The



appeal, upon being found to merit consideration, was formally admitted to regular hearing, and notice was duly issued to the respondents. Consequently, the appeal was heard in its entirety on the submissions advanced by learned counsel appearing for the appellant alone. To enable a thorough, informed, and effective adjudication of the issues arising in the appeal, the complete record of the Courts below was requisitioned and placed before this Court for perusal and consideration.

CONTENTIONS

7. Learned counsel for the appellants has argued before this Court that both the Courts below failed to appreciate the documentary evidence produced by the plaintiffs, particularly the death certificate and the municipal register entry. It was submitted that once the plaintiffs had produced the death record and had further examined witnesses who deposed that Hazara Singh died at Maqboolpura, the burden shifted entirely upon the defendants to prove that Hazara Singh was alive, which the defendants failed to discharge. It was also contended that the learned Courts below attached undue significance to the absence of photographs, ration cards or voter lists whereas such documents are not decisive in establishing the fact of death. According to the appellants, the findings of the learned Courts below are perverse and have resulted in miscarriage of justice.

8. Per contra, learned senior counsel for the respondents argued that the decree dated 27.04.1928 had become wholly inoperative in law, as the statutory foundation of customary rights stood repealed by the Punjab Laws (Customs) Repeal Act, 1973. With the abolition of customary law, it was submitted that the plaintiffs no longer retained any enforceable reversionary or proprietary right.

As the decree was based purely on custom, which has since been legislatively



extinguished, the suit itself was not maintainable. Consequently, it was urged that the present appeal, being founded upon an unenforceable and extinguished right, also merits dismissal.

OBSERVATIONS AND FINDINGS

8. I have heard learned counsels for both parties at considerable length and have bestowed anxious and thoughtful consideration upon his submissions, keeping in view the pleadings of the parties, the evidentiary material brought on record, and the concurrent findings returned by the Courts below. The entire record has been subjected to a meticulous and comprehensive scrutiny for the purpose of determining *‘whether the impugned concurrent judgments and decrees suffer from any jurisdictional error, manifest perversity, misappreciation of evidence, or any other legal infirmity that would justify and necessitate interference in the exercise of appellate jurisdiction’?*

9. In the backdrop of the facts and record of the case, the following substantial question of law emerges for adjudication:

“Whether a civil suit filed in 1987 based on a customary reversionary decree of 27.04.1928 is maintainable after the repeal of Punjab Customary Law by the Punjab Laws (Customs) Repeal Act, 1973?”

10. It is admitted that the entire foundation of the appellants’/plaintiffs’ claim rests on a reversionary decree dated 27.04.1928 passed under the Punjab Customary Law. It is undisputed that such decree was passed under the Punjab Custom (Power to Contest) Act, 1920, which at that time conferred statutory recognition upon reversionary rights arising from custom. However, the relevant legal framework has undergone a substantial and irreversible shift with



the coming into force of the Punjab Laws (Customs) Repeal Act, 1973 (Punjab Act 8 of 1973). The repeal Act of 1973 has the effect of abolishing the statutory enforceability of customary law in matters of succession among Hindus in the State of Punjab. Custom, which earlier had the force of law through statutory recognition, stood denuded of its legal efficacy. Thus, while the decree of 27.04.1928 may have been perfectly valid at the time it was rendered, a right which is extinguished by subsequent legislation cannot be enforced in a court of law after the repeal.

11. This legal position has been firmly upheld by the Hon'ble Supreme Court in ***Darshan Singh v. Ram Pal Singh 1991 AIR (SCW) 1651*** and by this Court in ***Kamakar Singh & others v. Didar Singh & others, 2011(2) RCR (Civil) 550***, wherein it was held that decrees based on Punjab custom lose their enforceability after the repeal of the customary law. The Court observed that even if the decree had attained finality, enforcement of such decrees after 1973 was impermissible since the legal foundation of custom no longer exists. Similarly, in ***Ujagar Singh v. Badan Singh and others, 2010(4) RCR (Civil) 419***, this Court categorically held that customary rights stand abrogated and cannot be enforced even if based on earlier decrees, as the law no longer recognizes such rights post-1973. The principle applies with full force here, where the plaintiffs seek to revive a defunct customary right after more than sixty years of the decree. The law recognizes only enforceable rights, not historical remnants.

12. Even assuming for the sake of argument that Hazara Singh died on the date i.e. 27.11.1987 pleaded by the plaintiffs, the right to possession based upon reversionary custom no longer exists in law. The enforceability of the decree is governed not by law as it stood in 1928, but by law in force on the date when



the suit was instituted i.e. 14.12.1987. By that time, the Punjab Laws (Customs) Repeal Act, 1973 had wholly displaced the customary legal regime and made the decree obtained by plaintiffs in their rights under customs law ineffective and no more enforceable. The plaintiffs cannot be permitted to take advantage of a decree whose legal substratum has ceased to exist. As the cause of action itself is extinguished by operation of law.

13. Thus, the decree dated 27.04.1928 may remain a historical document, but it cannot be made the basis for a fresh cause of action in 1987 or thereafter. Any rights flowing from that decree perished with the repeal of the statutory foundation of custom by Punjab Laws (Customs) Repeal Act, 1973. Therefore, the suit filed in 1987 on the basis of a 1928 customary decree was wholly non-maintainable as the legal foundation of the decree had ceased to exist.

14. Upon holding that the foundational suit was itself not maintainable, nothing further survives for consideration in this appeal, therefore the present appeal is **dismissed**.

14. Since the main appeal has been decided, any pending application(s), if any, also stands disposed of.

14.11.2025
Saurav Pathania

(VIRINDER AGGARWAL)
JUDGE

- (i) Whether speaking/reasoned : Yes/No
- (ii) Whether reportable : Yes/No