

138

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

**RSA No.1822 of 2023 (O&M)
Date of decision : 11.12.2025**

Partap (now deceased) through his LRs

....Appellants

Versus

Karambir and another

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Vivek Singla, Advocate and
Ms. Urvashi Singh, Advocate
for the appellants.

Mr. Prateek Mahajan, Legal Aid Counsel and
Mr. Daanish Mahajan, Advocate
for the respondents.

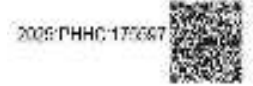
PANKAJ JAIN, J. (ORAL)

Defendants are in second appeal.

2. For convenience, the parties hereinafter are referred to as by their original position before the Court of First Instance, i.e., the appellants as defendants and the respondents as plaintiffs.

3. Plaintiffs filed suit seeking decree of declaration to the effect that Transfer Deed No.1419, dated 15.06.2000 and the consequential mutations on the basis thereof are illegal, null and void and sought possession of the suit land measuring 3 Kanal 11 Marlas as detailed out in the headnote of the plaint (hereafter referred to as 'the suit land').

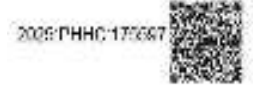
4. As per the case of the plaintiffs, they transferred suit land in



favour of Partap vide impugned transfer deed. In lieu of which, defendant No.1 Partap (since deceased) transferred certain land in favour of the plaintiffs. The land transferred in favour of the plaintiffs by defendant Partap was subject matter of Civil Suit No.69 of 1978 titled as 'Suresh etc. vs. Fateh Singh etc. The *lis* travelled up to Supreme Court. Supreme Court set aside Sale Deed bearing No.1053, dated 12.09.1973 executed by Mange son of Phoola in favour of defendant Partap. Thus, the effect of judgment rendered by Supreme Court is that the plaintiffs lost the land transferred in their favour by defendant in lieu of land transferred by plaintiffs in his favour. Plaintiffs thus claimed that the transfer deed as per the terms of the contract has been rendered void and the defendants are required to put plaintiffs back in possession of the suit land transferred by plaintiffs to defendants.

5. Suit was contested by the defendants. It was admitted that by the dint of decision rendered by Supreme Court, sale deed in favour of defendants, stands annulled. However, it was claimed that transfer deed impugned in the present suit, remains unaffected. Defendants claimed that plaintiffs had knowledge about the dispute of the title of the land and voluntarily executed and registered Transfer Deed, dated 15.06.2000.

6. The Courts below held that since there was a specific covenant in the transfer deed, Exhibit P-1, that in case any of the parties loses his right of land and the exchange gets frustrated, the party shall put the other party in possession of the land. Plaintiffs having lost the land received in exchange



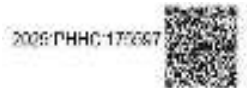
from the defendants owing to defect in the title of the defendants, they are entitled for possession as the Transfer Deed, dated 15.06.2000 impugned in the present *lis*, is hit by principle of *lis pendens*. The *lis qua* title of the defendants, was pending at the time of execution of the exchange deed. The Courts below accordingly, decreed the suit filed by the plaintiffs.

7. Counsel for the appellants has assailed the judgment and decree passed by the Courts below. He contends that the present suit has been filed after 21 years of Exchange/Transfer Deed, dated 15.06.2000. Thus, the present suit is barred by limitation.

8. Specifically Issue No.3 was framed *qua* limitation.

8.1. The Courts below answered Issue No.3 in favour of the plaintiffs. The Lower Appellate Court while affirming the findings recorded by the Court of First Instance on the Issue of limitation, observed as under:

“22. Now the contention of the appellants/defendants is that limitation period for challenging the exchange deed is three years and the present exchange deed has been challenged after more than 9 years, therefore, the suit is barred by limitation. In this regard, it is observed that present exchange deed has not been challenged on the basis of fraud and misrepresentation. Rather, it is challenged on the ground that title and possession of one party of the exchange deed has been extinguished by way of the judgment of the Court, therefore, as per terms and conditions of the exchange deed, the other party is entitled for possession of his original piece of land. In such circumstances, the date of cause of action will arise from the date of judgment. In the present matter, the judgment was passed by the Hon'ble Supreme Court of India on 12.12.2017, the copy of which is on the record as Ex.P4. From that date, the suit of the plaintiffs/respondents is well within limitation. Therefore, the law laid down by law laid down by the Hon'ble Punjab & Haryana



High Court in case titled Faqiria and others and **Ram Pat and others Vs. Hawa Singh and others 2018(3) PLR 406** are not applicable on the facts and circumstances of the present case. In view of above said judgment dated 12.12.2017 the possession was taken from the plaintiffs/respondents in execution petition in the year of 2019. Hence, the present suit is well within limitation.”

9. Counsel for the appellants has not been able to point out any infirmity or error in the findings recorded by the Courts below *ibid*.
10. It being a suit of title, once the *lis* attained finality before Supreme Court on 12.12.2017, the limitation for maintaining suit commenced. The suit was filed by the plaintiffs on 03.07.2018. It is not disputed that impugned exchange deed/transfer deed was executed during pendency of earlier *lis*. Title of appellant was in dispute in the same. Exchange Deed apart from being hit by *lis pendens*, the issue involved was that of title. Thus, limitation period for filing the present suit would not be governed by Article 59 but by Article 65 of the Limitation Act, 1963.
11. In view thereof, this Court does not find any reason to interfere in the well reasoned findings recorded by the Courts below.
12. No other issue has been raised.
13. Resultantly, finding no merit in the present appeal, the same is ordered to be dismissed.
14. Pending application, if any, shall also stands disposed off.

December 11, 2025

Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

