

2025:PHHC:019487



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

**110**

**RSA-3652-2019 (O&M)**

**Date of Decision : 10.02.2025**

SHINDERPAL SINGH AND ANR

.... Appellants

VERSUS

JAGGAR SINGH AND ANR

.... Respondents

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Rahul Vijay Singh Chugh, Advocate for the appellants.

**ALKA SARIN, J. (ORAL)**

1. The present regular second appeal has been preferred by the plaintiff-appellants challenging the judgments and decrees dated 02.09.2016 and 20.02.2019 passed by the Trial Court and the First Appellate Court, respectively.

2. The facts as relevant to the present *lis* are that the plaintiff-appellants herein filed a suit for declaration and permanent injunction averring therein that they were owners of 2/9<sup>th</sup> share of land measuring 43 Kanal 10 Marla and that the defendant-respondents alleged a mutual exchange of land measuring 7 Kanal 3 Marla on 09.01.2014 which was wrong as they were not the owners of 7 Kanal 3 Marla and had not made any mutual exchange with the defendant-respondents.

3. On notice the defendant-respondents appeared and filed their joint written statement. It was the stand taken that the exchange of land in question was affirmed by the plaintiff-appellants vide compromise deed

dated 28.05.2014 duly signed and thumb marked by both the parties. Various other objections were raised. Preliminary objections regarding maintainability and court fees were also raised. On merits it was stated that the plaintiff-appellants had exchanged 143/870<sup>th</sup> share of land measuring 43 Kanal 10 Marla with the defendant-respondents and that the plaintiff-appellants were not owners in possession of 2/9<sup>th</sup> share of this land. It was denied that Rapat No.253 dated 22.01.2014 and mutation No.16344 dated 31.01.2014 were illegal and ineffective qua the rights of the plaintiff-appellants. Rather, the same was got entered into by the plaintiff-appellants with their own free will and sound disposing mind.

4. Replication was filed controverting the pleas taken in the written statement and reiterating those taken in the plaint. On the basis of the pleadings of the parties the following issues were framed :

1. Whether the plaintiff is entitled to declaration as prayed for ? OPP
2. Whether the plaintiff has no *locus standi* and cause of action to file the present suit ? OPD
3. Whether the suit is not maintainable in the present form ? OPD
4. Whether the plaintiff has concealed the true and material facts from the Court ? OPD
5. Relief.

5. The Trial Court dismissed the suit vide judgment and decree dated 02.09.2016. Aggrieved by the same an appeal was preferred by the

plaintiff-appellants which appeal was also dismissed by the First Appellate Court vide judgment and decree dated 20.02.2019. Hence, the present regular second appeal by the plaintiff-appellants.

6. The learned counsel for the plaintiff-appellants would contend both the Courts have erred in dismissing the suit. It is urged that there was no exchange deed and that the alleged exchange deed was illegal and the entry in the revenue record was also illegal. It is further the contention that an FIR had been lodged qua the said exchange alleged to have been entered into between the parties. Learned counsel would further contend that the findings of both the Courts concerned are beyond the pleadings.

7. Heard.

8. In the present case the challenge is to the exchange which finds reflected in the revenue records. DW-2, namely, Balkar Singh had stepped into the witness box and had stated that mutation No.16344 was entered by him being Halqa Patwari at the instance of the parties and prior to entering the said mutation, Rapat No.253 dated 22.01.2014 on the basis of agreement of exchange dated 09.01.2014 was got entered by both the parties. He further deposed that the Rapat and the mutation were both signed/thumb marked by the parties and witnessed by Sukhdev Singh (Numberdar) and Balvir Singh son of Labh Singh. The mutation also bears photographs of the parties. DW-2, namely, Balkar Singh also proved documents Ex.D-2 to Ex.D-4. This witness also stated in his cross-examination that the original writing dated 09.01.2014 was attached with the Parhat Sarkar. Both the Courts have further found that after the exchange had been effected, the plaintiff-

appellants had themselves mortgaged the land so exchanged vide mortgage deed (Ex.D-1) with the State Bank of Patiala to obtain a loan. The argument of the learned counsel for the plaintiff-appellants that the findings are beyond pleadings is neither here nor there inasmuch as all the findings are based on the pleadings of the parties and on the basis of the documentary and oral evidence led by them. Learned counsel for the plaintiff-appellants has not been able to point out any evidence on the record to even remotely suggest that the exchange deed was illegal, null and void. In the absence of any such evidence, no fault can be found with the judgments and decrees passed by both the Courts concerned. No other point was argued.

9. In view of the above, I do not find any merit in the present appeal. No question of law, much less any substantial question of law, arises for determination in the present case. The appeal being devoid of any merits is accordingly dismissed. Pending applications, if any, also stand disposed off.

**10.02.2025**

*Aman Jain*

**(ALKA SARIN)**

**JUDGE**

*NOTE: Whether speaking/non-speaking: Speaking  
Whether reportable: Yes/No*