

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****115****RSA-5189-2019 (O&M)****Date of decision: 25.03.2025****Naresh Kumar****...Appellant(s)****Vs.****Shashi Kanta and another****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA****Present:- Mr. Rajeev Dev Sharma, Advocate for the appellant.***********NIDHI GUPTA, J.**

The plaintiff is in second appeal against the concurrent judgments and decrees of the learned Courts below, whereby the suit filed by the plaintiff seeking permanent injunction that the defendants be restrained from cutting and removing the trees standing on the suit land measuring 24 Kanal as described in the head note of the plaint; and declaration to the effect that revenue entry showing defendant No.1 as owner of the land as detailed in the head note; is wrong/incorrect and it be ordered to be corrected in the name of the plaintiff and his other co-sharers, has been dismissed by both the Courts below.

2. The parties shall hereinafter be referred to as per their status before the learned trial Court i.e. the appellant is the 'plaintiff'; and respondents are the 'defendants'.

3. Brief facts of the case are that the plaintiff filed a suit with the averments that the land bearing No. 134/121 Min, Khatauni No.223, Kila No.20R/18(8-0), 19(8-0), 20(8-0), total measuring 24 Kanals situated in



village Gugran Had Bast No. 84 Tehsil Narot Jaimal Singh as detailed in Jamabandi for the year 2013-14 was originally in the ownership and possession of Chain Singh grandfather of the plaintiff. Now the plaintiff is the owner in possession of the said land including the trees i.e. 5 Safeda, 8 Tahli, 1 Mango, 1 Rumbal, 1 Sarian standing thereupon. It was further averred that vide order dated 12.03.1976 the Collector Agrarian, Pathankot held that there was no surplus land of Chain Singh. The Financial Commissioner (Appeals) vide order dated 11.09.1986 held that Chain Singh was a small landowner and allotment in the name of Sewa Singh was made out and alleged surplus area of Chain Singh, was ordered to be cancelled. However, for some reasons best known to the revenue authorities, this was not incorporated in the revenue record that Chain Singh had been declared a small landowner and none of his holding is surplus area. It was further averred that wrong entry was record in the jamabandi for the year 1997-98 showing Provincial Government in the column of ownership. The property in the jamabandi for the year 1997-98 village Gugran bears Khata No. 108 No. 195, Killa Nos. 20R/18,19,20. However in the column of cultivation one Kamlesh Singh late husband of defendant No.1 is recorded as a tenant. Further it is averred that it appears that above said Kamlesh Singh in active connivance with the Revenue Staff has got incorporated as allottee of the surplus area whereas the area was not surplus area. As detailed above the original landowner Chain Singh had been declared a small landowner. As such there is no question of any area being surplus area or of allotment as surplus area. All such entries are void and are liable to be ignored. Further it



is averred that the defendant No. 1 is the widow of Kamlesh Singh and she in connivance has threatened to cut the trees detailed in the head note and encash the proceeds and appropriate the same to themselves which act of the defendants is illegal/unlawful is being so done to cause irreparable loss of the plaintiff. Hence, the present suit was instituted on 30.05.2015.

4. Upon notice, the defendant appeared through counsel and resisted the suit by filing written statement. Besides formal objections, it was pleaded in the written statement that the suit land having been the surplus area under the Punjab Security of Land Tenure Act and the Punjab Land Reforms Act as on the appointed day, therefore it vested in the Punjab State free from all encumbrances and had been allotted to defendant No.1 under the land Ceiling Laws by the Collector Agrarian Pathankot being in prior possession of it herself and through her predecessor in interest. It is pleaded that plaintiff has no locus standi to file the present suit. Further it is objected that vide the order dated 17.04.1979 passed by Collector Agrarian Pathankot the possession of 105 Kanals 7 Marlas of land Including the suit land was delivered to the Punjab State with the corresponding entry in the roznamcha. It is further pleaded that vesting of the suit land as surplus area in the State Government took place on 12.04.1966, when it was declared surplus area and stood utilized under the Punjab Securities of Land Tenures Act. Defendant no.1 has already made the deposit of the compensation amount of Rs.3230/- with the Government and necessary certificate had already been issued in favour of defendant no.1. All the averments of plaintiff were specifically denied, and prayer for dismissal of suit was made.



5. From the pleadings of the parties following issues were framed:-

“1. Whether the plaintiff is entitled to relief of permanent injunction as prayed for? OPP

2. Whether the suit of the plaintiff is within limitation? OPP

3. Whether the suit of the plaintiff is not maintainable in the present form? OPD

4. Whether the plaintiff has no locus standi or cause of action to file the instant suit? OPD

5. Whether the suit of plaintiff is bad for non-joinder and mis-joinder of the necessary parties? OPD

Issues Added Vide Order Dated 02.02.2018:-

5-A Whether the revenue entries in the revenue record showing defendant No.1 as owner in possession of suit property is wrong and incorrect and liable to be corrected? OPP

5-B Whether the plaintiff and other co-shares are liable to be recorded as owner in possession of suit property? OPP

6. Relief”

6. Upon appraisal of the pleadings and the evidence led by the parties, the Id. trial Court decided all the issues against the plaintiff and in favour of the defendant; and accordingly, vide judgment and decree dated 24.05.2018, the learned trial Court dismissed the suit of the plaintiff with costs holding that plaintiff was not entitled for relief of declaration and permanent injunction as prayed for. The appeal filed by the plaintiff was also dismissed by learned Additional District Judge, Pathankot vide judgment and decree dated 29.11.2018. Hence, the present second appeal.

7. It is submitted by learned counsel for the appellant that the learned Courts below have failed to appreciate that the plaintiff was able to



prove his claim over the suit land. It is submitted that plaintiff had duly placed on record the order dated 11.09.1986 (Ex.P3) passed by the Financial Commissioner (Appeals) holding that Chain Singh was a small land holder. It has therefore been wrongly observed by the learned Courts below that the plaintiff had not got enforcement of his right declared by the Financial Commissioner (Appeals). It is submitted that there is no limitation to obtain relief to the title of the property, especially as there is a specific order of the Financial Commissioner in favour of the plaintiff. As such, the suit of the plaintiff deserves to be decreed.

8. It is submitted that the learned Courts below have failed to appreciate that defendant No.1 has been wrongly recorded as owner of the suit property. Defendant No.1 has nowhere been able to prove her ownership over the suit property; whereas there is ample evidence on record to show that the plaintiff is real owner of the suit property. As such, judgments and decrees of the learned Courts below are liable to be set aside. It is accordingly prayed that the present appeal be allowed.

9. No other argument is raised on behalf of the appellant/plaintiff.

10. I have heard learned counsel for the appellant/plaintiff and perused the case file in great detail.

11. I find no merit in the submissions made on behalf of the plaintiff. A perusal of the evidence on record in the form of jamabandi for the year 2013-14 (Ex.P1) does not show possession of the plaintiff over the suit land. In fact, khasra girdawari (Ex.P2) shows that the plaintiff is not in



possession of the suit land. On the other hand, the defendant had produced jamabandi for the year 2008-09 (Ex.D1) as per which ownership of the suit land is recorded with the Provincial Government; and in the column of possession, name of husband of defendant No.1 is shown. The defendant had also brought on record jamabandi for the year 2013-14 (Ex.D2) as per which possession of defendant No.1 over the suit land is reflected. Ex.D2 further shows that suit land was allotted to defendant No.1 by the Provincial Government vide allotment order dated 29.11.2013 (Ex.D3); and as per Ex.D4, allotment fee was duly paid by defendant No.1 to the authorities; whereupon vide allotment certificate Ex.DX, land was allotted in favour of defendant No.1. Needless to say, these revenue entries carry presumption of truth. Further, admittedly, plaintiff even never challenged the order of allotment dated 29.11.2013 (Ex.D3) made by the District Collector in favour of defendant No.1.

12. It has been submitted on behalf of the plaintiff that vide order dated 12.03.1976 passed by the Collector Agrarian (Ex.P3), Chain Singh was found to be a small landowner with no surplus land. This order was upheld by the Financial Commissioner (Appeals) vide order dated 11.09.1986 (Ex.P3/A). First and foremost, the said order Ex.P3/A does not contain any revenue Number to connect it with the suit land. Even otherwise, admittedly the said orders were never got implemented by the revenue authorities. It is only on 05.02.2015 (Ex.P4) that an application was made by the plaintiff to the District Collector, Pathankot for implementing Ex.P3/A. However, even thereafter no revenue record in the form of any jamabandi



etc. is brought on record by the plaintiff to show that order Ex.P3/A was ever implemented. Thus, it was correctly held by Id. Courts below that if the revenue authorities had not implemented the order of the Financial Commissioner, then the remedy was available with the plaintiff. No explanation has been given by the plaintiff as to why he had not got the enforcement of his right declared by the Financial Commissioner for a period of 30 years and why an application was not moved by the plaintiff before the competent revenue Court.

13. From the above facts, it is clear that after order of the Financial Commissioner dated 11.09.1986, no steps were taken by the plaintiff till 2015 for making necessary changes, if any, in revenue record. Even nothing has been placed on record by the plaintiff in respect of any decision taken by the said authorities in the application dated 5.02.2015 (Ex.P4) moved by the plaintiff. On the other hand, as already noted above, revenue entries carried in the name of defendant No.1 are on the basis of allotment letter dated 29.11.2013 (Ex.D3).

14. It is also to be noted that the present suit is barred by limitation as Article 58 of the Limitation Act stipulates limitation of 3 years to challenge the revenue entries. In the present case, it is the claim of the plaintiff that revenue entries are wrong since 1997-98; whereas the present suit has been filed on 30.05.2015. The plaintiff has even admitted before the learned trial Court that he was aware of the said wrong revenue entries. As such, suit of the plaintiff was liable to be rejected in view of this admission itself.



15. Even further Provincial Government was a necessary party to the present *lis* as plaintiff is seeking declaration as owner of the suit property; which, as per jamabandis Ex.D1 and D2 are shown to be in the ownership of the Provincial Government. Furthermore, nothing has been brought on record by the plaintiff to show that the suit property was in the name of Chain Singh. The plaintiff has never relied upon order (Ex.P3/A) to show that plaintiff is owner of the suit land.

16. Thus, I am in agreement with the observations of the learned trial Court that *“plaintiff was required to produce the revenue record to prove that the suit land was earlier recorded in the name of Chain Singh in the revenue record which was subsequently declared surplus area in Punjab Land Tenure Act, 1953.”* The plaintiff also failed to prove his possession over the suit land. As such, injunction too, could not have been granted in favour of the plaintiff.

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

18. In view of the discussion above, 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.

25.03.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

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