



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

112

**ESA-13-2017 (O&M)
Date of decision: 17.03.2025**

GURDEEP SINGH AND ORS**..Appellants****Versus****SADHU SINGH AND ORS.****..Respondents****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Sandeep Khunger, Advocate
for the appellants.

Mr. Ravish Bansal, Advocate
Ms. Liza Bansal, Advocate
for respondents.

ANIL KSHETARPAL, J (Oral)

1. This execution second appeal has been filed to assail the correctness of orders passed by the Courts below. In fact, the predecessor of the appellants filed usual suit for declaration on the basis of customary law while claiming that the sale deed executed by Sh. Balwant Singh, father of their predecessor was without consideration and legal necessity. The trial Court partially decreed the suit declaring that the sale was without legal necessity though the sale was for payment of valuable sale consideration.

2. The common ancestor of the appellants namely Sh. Balwant Singh died on 20.06.2009 and the appellants filed application for execution of the decree on 20.11.2009, which has been dismissed by both the Courts below.

3. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

4. In fact, the State of Punjab enacted the Punjab Limitation (Custom) Act, 1920 (in short '1920 Act'), to limit and restrict such suits.

Along with the ‘1920 Act’, schedule of the period of limitation was notified. As per Article 2 of the schedule, a suit for possession of ancestral immovable property, which has been alienated on the ground that the alienation is not binding on the plaintiff according to the custom can be filed within a period of three years from the date on which the right to sue accrues or the date on which the declaratory decree is passed, whichever is later.

5. Article 2 of the ‘1920 Act’ is extracted as under:-

Schedule

Description of suit	Period of limitation	Time from which period begins to run
1. xxxx	xxxx	xxxx
2. A suit for possession of ancestral immovable property which has been alienated on the ground that the alienation is not binding on the plaintiff according to custom -		
(a) if no declaratory decree of the nature referred to in Article 1 is obtained	6 years	Firstly:- If the alienation is by a registered deed, the date of registration of such deed. Secondly:- If the alienation is not by a registered deed -(a) if an entry regarding the alienation in the Register of Mutation has been attested by a Revenue Office under the Punjab Land Revenue Act, 1887, the date on which the entry is attested ; (b) if such entry has not ben attested, the date on which the alience takes physical possession of the whole or any part of the property alienated in pursuance of such alienation ; (c) in all other cases the date on which the alienation comes to the knowledge of the plaintiff.
(b) if such declaratory decree is obtained	3 years	The date on which the right to sue accrues or the date on which the declaratory decree is obtained, whichever is later.



6. It is evident that if declaratory decree has already been obtained, the suit for possession is required to be filed by the plaintiff withing a period of three years from the date Sh. Balwant Singh died.

7. This aspect has been examined in detail in **RSA-720-1986, titled as “Gurdev Singh (deceased) through LRs Vs. Gurcharan Singh (deceased) through LRs and others”, decided on 14.03.2024.**

8. It may be noted here that on 23.01.1973, the State of Punjab omitted Section 6 of the Punjab Custom (Power to Contest) Act, 1920. Thus, the provision for filing the suit on the basis of custom has altogether been deleted.

9. Keeping in view the aforesaid discussion, no ground to interfere is made out.

10. Dismissed accordingly.

11. All the pending miscellaneous applications, if any, are also disposed of.

March 17th, 2025

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(ANIL KSHETARPAL)
JUDGE

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