

2025:PHHC:110572



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

**RSA-316-2012 (O&M)  
Decided on:-21.08.2025**

Raghunath and others

....Appellants

vs.

Munni Devi and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

Present: Mr. Saajan Singla, Advocate with  
Ms. Parveen Dahiya, Advocate and  
Mr. Vipul Khurana, Advocate,  
for the appellants.

Mr. Vikram Singh, Advocate with  
Ms. Devika Kamboj, ADvocate and  
Mr. Arvind Sood, Advocate,  
for the respondents.

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**HARKESH MANUJA J. (Oral)**

**CM-7555-C-2024**

The application for preponing the date of hearing is dismissed  
as having been rendered infructuous.

**CM-7766-C-2022**

Prayer in this application is for impleading the legal  
representatives of respondent No.9-Smt.Kela (deceased) and her son namely,  
Munesh Kumar (deceased).

Notice of the application.

Mr. Saajan Singla, Advocate, accepts notice on behalf of the

non-applicant-appellants and raises no objection to the prayer made in the application.

Having heard learned counsel for the parties and gone through the contents of the application, prayer made herein is allowed. Accordingly, persons mentioned in para 2 of the application are ordered to be impleaded as legal representatives of respondent No.9-Smt.Kela (deceased) and her son namely, Munesh Kumar (deceased).

Amended memo of parties is taken on record.

**Main case**

1. By way of present appeal, challenge has been laid to the judgments and decrees dated 08.12.2009 and 21.10.2011 passed by the Courts below, whereby, a suit for declaration preferred at the instance of respondents-plaintiffs (*hereinafter referred to as ‘respondents’*) came to be decreed qua 1/4th estate of deceased-Shera in their favour.

2. In the present case, the estate of Shera son of Niader, happens to be in dispute. Shera had four sons, namely, Ramphal, Om Parkash, Ram Niwas and Suraj Mal. The respondents, who happen to be the natural heirs of Ram Niwas, claimed themselves to be in possession of 1/4th share of the estate left by their grandfather-Shera in village Jainpur, whereas, the appellants-defendants (*hereinafter referred to as ‘appellants’*) are the natural heirs of the other three sons of Shera, namely, Om Parkash, Suraj Mal and Ramphal. Upon demise of Shera, his estate in village Jainpur, District Sonipat came to be mutated on 25.07.1979 vide mutation No.1160, based on inheritance, in the names of his three sons, namely, Ram Phal, Om Parkash and Suraj Mal in equal shares, thereby, ignoring the rights of fourth son, namely, Ram Niwas. The respondents being the natural heirs of Ram

Niwas son of Shera sought declaration qua the validity of mutation entered in the name of three sons of Shera, besides making a prayer for relief of permanent injunction for restraining the appellants from alienating the suit property in any manner. Hence, the suit.

3. Upon notice, the appellants appeared and contested the suit while claiming that the same was barred by limitation as the mutation qua the estate of deceased-Shera was entered way back on 25.07.1979, besides even asserting their title based on adverse possession. It was disputed and denied in the written statement that the respondents were in possession of any part of estate/property left by Shera in Village Jainpur.

3.1 Based on the pleading of the parties, the following issues were framed by the learned trial Court:-

“1. Whether the plaintiffs are owners in possession of 1/4th share out of the share of their grandfather Shera in the land mentioned in para No.2 of the plaint as alleged and if so, to what effect? OPP

2. Whether the impugned mutation numbers can be declared null and void, if so to what effect? OPP

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

3-A Whether the defendant Nos.1 to 8 have become owners in possession of suit land by way of adverse possession? OPD

4. Whether the suit is barred by limitation? OPD

5. Relief.”

4. The Trial Court vide judgment and decree dated 08.12.2009 decreed the suit filed at the instance of respondents herein. Aggrieved against the same, the appellants herein filed the first appeal, however, the same was dismissed vide judgment and decree dated 21.10.2011 passed by

the Additional District Judge, Sonipat. Hence, the present appeal.

5. Impugning the aforementioned judgments and decrees, learned counsel for the appellants submits that the suit filed at the instance of respondents was clearly barred by limitation, as mutation with respect to the estate of deceased-Shera in Village Jainpur was sanctioned on 25.07.1979, whereas, the present suit for declaration was filed by the natural heirs of Ram Niwas son of Shera only in the year 2004. He also submits that from the date of entry of mutation No.1160 (Ex.P-1), it were the appellants, who remained in actual physical possession of the property in question to the complete knowledge and oustee of Ram Niwas and his successor and as such, it is the appellants who have by now become owner by way of adverse possession and accordingly, the suit filed at the instance of respondents was liable to be dismissed. No other argument has been addressed.

6. On the other hand, learned counsel for the respondents submits that mutation No.1160 dated 25.07.1979 (Ex.P-1) with respect to the estate of deceased-Shera in village Jainpur was entered on the basis of mis-statement of fact by the then Lambardar, who at the time of entering of mutation declared that Shera was having only 3 sons. Learned counsel thus, submits that the aforesaid declaration made by the concerned Lambardar was factually incorrect and as such, the said mutation was liable to be declared illegal, null and void. He also submits that there was no evidence on record to establish the exclusive physical possession of the appellants over the property in question and as such, the suit filed at the instance of respondents-plaintiffs was within limitation there being no disturbance or overt act at the hands of appellants-defendants to the possession of the respondents over their 1/4th share.

7. I have heard learned counsel for the parties and gone through the paper book. I am unable to find substance in the submissions made on behalf of the appellants.

8. In the present case, it has nowhere been denied or disputed that Shera was having four sons, namely, Ramphal, Om Parkash, Suraj Mal and Ram Niwas. As per the records, mutation No.1160 Ex.P-1 related to the estate of Shera in Village Jainpur was sanctioned on 25.07.1979, based on declaration made by the then Lambardar of the Village that Shera was having only 3 sons, namely, Om Parkash, Ramphal and Suraj Mal, which fact was totally incorrect. Accordingly, the said mutation, which was based on wrong facts was thus, rightly declared as illegal, null and void, thereby, not effecting the rights of the respondents being the heirs of Ram Niwas, who admittedly was the fourth son of deceased-Shera. This fact is fortified from the aspect that the mutation with respect to the estate of Shera in another Village Teha was entered into the name of his four sons including Ram Niwas vide mutation No.775 and the same was even proved on record as Ex. P-2. Thus, there was no justification at all on the part of the revenue authorities to exclude the name of Ram Niwas while entering mutation qua the estate of deceased-Shera regarding his estate left in village Jainpur.

8.1 Further, in the humble opinion of this Court, no merit can be found in the submission made on behalf of the appellants that the suit filed at the instance of respondents was barred by limitation. It is well-established that mutation entries made in the revenue record itself do not constitute a cause of action. These entries neither convey nor extinguish any title. The cause of action arises only when there is a threat to the title of the suitor. The limitation to challenge a mutation does not commence from the date of the

erroneous entry but from the date when the possession of the suitor is threatened. It is important to note that these entries in the revenue records are maintained solely for the purpose of land revenue. The affected party is required to obtain a declaration to the effect that the mutation entered in favour of the opposite side does not affect the rights of the suitor and he be declared having rights in the subject property. Such a suit is governed under Article 58 of the Schedule of the Limitation Act, 1963 and for convenience, the same is extracted hereunder:-

| <b><i>“Description of Suit:</i></b>        | <b><i>Period of Limitation</i></b> | <b><i>Time from which period begins to run</i></b> |
|--------------------------------------------|------------------------------------|----------------------------------------------------|
| <i>58. To obtain any other declaration</i> | <i>Three years</i>                 | <i>When the right to sue first accrues.”</i>       |

As per Article 58, the limitation of three years commences from the date when the right to sue first accrues, which in fact is the day when there is infringement of rights or a clear and unequivocal threat to infringe the rights of the suitor on the basis of such a mutation, and not merely from the date of entering or sanctioning of the same. Similar view has been expressed by the Hon’ble Apex Court in ***Daya Singh & Anr. Versus Gurdev Singh (Dead) by L.Rs. & Ors.***, reported as 2010(1) Civil Court Cases 290 and relevant paragraphs 7 to 9 of the same are reproduced hereunder:-

“7. As noted herein earlier, the only question, therefore, to be decided is whether the mere existence of an adverse entry in the revenue records had given rise to cause of action as contemplated under Article 58 or it had accrued when the right was infringed or threatened to be infringed. Let us, therefore, consider whether the suit was barred by limitation in view of Article 58 of the Act in the background of the facts stated in the plaint itself. Part III of the schedule which has prescribed the period of limitation relates to suits concerning declarations. Article 58 of the

*Act clearly says that to obtain any other declaration, the limitation would be three years from the date when the right to sue first accrues. In support of the contention that the suit was filed within the period of limitation, the learned senior counsel appearing for the plaintiffs/ appellants before us submitted that there could be no right to sue until there is an accrual of the right asserted in the suit and its infringement or at least a clear and unequivocal threat to infringe that right by the defendant against whom the suit is instituted. In support of this contention the learned senior counsel strongly relied on a decision of the Privy Council reported in AIR 1930 Privy Council 270 [Mt. Bolo v. Mt. Koklan and others]. In this decision their Lordships of the Privy Council observed as follows :-*

*"There can be no right to sue until there is an accrual of the right asserted in the suit and its infringement or at least a clear and unequivocal threat to infringe that right by the defendant against whom the suit is instituted."*

8. *A similar view was reiterated in the case of C. Mohammad Yunus v. Syed Unnissa and others [AIR 1961 Supreme Court 808] in which this Court observed: "the period of 6 years prescribed by Article 120 has to be computed from the date when the right to sue accrued and there could be no right to sue until there is an accrual of the right asserted in the suit and its infringement or at least a clear and unequivocal threat to infringe that right."*
9. *In the case of C. Mohammad Yunus (supra), this Court held that the cause of action for the purposes of Article 58 of the Act accrues only when the right asserted in the suit is infringed or there is at least a clear and unequivocal threat to infringe that right. Therefore, the mere existence of an adverse entry into the revenue record cannot give rise to cause of action."*

8.2 In the present case, except copy of khasra gridawari for the

period 2002-06 (Ex.D-9), no other evidence to establish the exclusive possession of the appellants over the land situated in village Jainpur has been produced. In such circumstances, the suit filed at the instance of respondents-plaintiffs in the year 2004 cannot by any stretch of imagination held to be barred by limitation. Moreover, even no merit can be found in the submissions made on behalf of the appellants to their plea of having become owner by way of adverse possession, especially, in the absence of any specific pleading mentioning about the date of inception of adverse possession; the date of conclusion thereof or any other overt act performed by the appellants over the suit property in question to establish their exclusive possession to the knowledge and notice of respondents. In such circumstances, once the adverse possession of appellants over the property in dispute was not established, the declaration qua ownership and joint possession on behalf of one of the heirs for establishing rights in the subject property on the basis of natural succession was not to be dismissed being barred by limitation.

9. In view of the discussion made hereinabove, finding no illegality or perversity in the concurrent findings recorded by the Courts below which are based upon proper appreciation of pleadings and the evidence available on record and there being no misreading thereof been pointed out specifically; the impugned judgments and decrees call for no interference. Resultantly, the present appeal being devoid of merits is hereby dismissed.

10. Pending application, if any, also stands disposed of.

21.08.2025

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**(HARKESH MANUJA)**  
**JUDGE**

Whether speaking/reasoned:  
Whether reportable:

Yes/No  
Yes/ No