

2025:PHHC:172698



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

RSA-2160-2024 (O&M)
Date of Decision: 08.12.2025

KARAM CHAND

...Appellant

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present:- Mr. N.S. Kandhola, Advocate for the appellant.

VIKRAM AGGARWAL, J.

1. This is plaintiff's appeal against the judgment and decree dated 14.05.2024 passed by the Court of Additional District Judge, Patiala, dismissing the appeal against the judgment and decree dated 28.10.2021 passed by the Court of Additional Civil Judge (Senior Division), Rajpura, whereby the suit of the plaintiff for declaration and permanent injunction, was dismissed.

2. For the sake of convenience and clarity, parties shall be referred to as per their original status.

3. The plaintiff filed a suit for declaration to the effect that he was owner of *gair mumkin land* measuring 22 Kanals 4 Marlas comprised in Khewat No.173/165 Khatauni No.200 Khasra no.41//1/4(22-4) situated in Village Fatehpur Garhi, Tehsil Rajpura District Patiala (hereinafter referred to as 'the suit land') and that entry in the name of Public Works Department (for short 'the PWD') in the column of cultivation was illegal, null and void. A decree for

permanent injunction was also sought restraining the defendants from interfering in any manner in the peaceful possession of the plaintiff over the suit land and further restraining them from raising any type of construction over the said land.

4. It was averred that the plaintiff was owner of the suit land and a drain was constructed over the said land by the Irrigation Department Punjab without giving the plaintiff any compensation. It was further claimed that the entries in the column of cultivation of the suit land in revenue record were wrongly entered in the name of PWD and the same were liable to be corrected. It was further claimed that numerous requests made by the plaintiffs to the defendants to correct the said entries did not yield any result. It was also claimed that the plaintiff had also requested the defendants to disclose as to how much land had been utilized for the drain and to also disclose whether any compensation was awarded in lieu of the acquisition of the land for construction of the drain, but no response was received. It was also claimed that no compensation was paid to the plaintiff in lieu of the acquisition of the suit land.

5. The suit was contested by the defendants. In the written statement filed by defendants No.1 and 4, preliminary objections regarding the plaintiff not having approached the Court with clean hands and having suppressed material facts from the Court, were taken. It was further stated that a natural '*Nallah*' had been flowing in the fields of the plaintiff for the last six decades and the Department had constructed a "Dhikansu Nala Diversion Bund & Drain" after acquiring the land vide Notification No.28 dated 26.07.1952 under

Section 3 of the Patiala Land Acquisition Act and vide Declaration No.34 dated 08.08.1952 under Section 6 of the said Act. It was also pointed out that prior to the filing of the civil suit, no legal notice as mandated under Section 80 CPC, was served upon the defendants and, therefore, the plaint was liable to be rejected under Order 7 Rule 11 CPC. Still further, it was pleaded that the State had been owner of the suit property since 1952-53 and the suit was hopelessly time barred. On merits, it was submitted that the plaintiff was not the owner of the suit land and at the time of acquisition of the land for the purposes of construction of the drain, suitable compensation was paid to the land owner(s). It was further pointed out that in the column of ownership of the Jamabandi for the year 1962-63, ownership of *Araji Matruqa Mahjareen* had been recorded and the PWD was shown to be in cultivation thereof, whereas Radhu Ram was shown as a temporary allottee (in respect of Khasra No. 81(4-0). It was further pleaded that since the year 1952, the State Government had been the owner in possession of the suit land.

6. In the separate written statement filed by defendants No.2 and 3, the averments made in the written statement of defendants No.1 and 4 were reiterated.

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

- “ 1. Whether the plaintiff is entitled for declaration as prayed for? OPP
2. Whether entry in cultivation column of suit land in the name of PWD department is null and void?OPP

3. Whether the plaintiff is entitled for permanent injunction as prayed for?OPP
4. Whether due compensation has been released to the plaintiff in lieu of construction of drain?OPD
5. Whether suit of the plaintiffs is not legally maintainable in the present form?OPD
6. Relief.”
8. Parties led their respective evidence.
9. The trial Court dismissed the suit vide judgment and decree dated 28.10.2021. The appeal filed by the plaintiff was also dismissed vide judgment and decree dated 14.05.2024 passed by the first Appellate Court.
10. I have heard learned counsel for the appellant and have also perused the record.
11. Learned counsel appearing for the appellant submits that PW3-Nirmal Singh Patwari, proved on record the Jamabandi for the year 2012-13 (Ex.P3/A) and the said witness deposed that the plaintiff was owner of the suit land. It is further argued that DW2-Harsimran Singh, Tehsildar, Rajpura, deposed in his cross-examination that as per the revenue record, the plaintiff was owner of the suit property. It is also argued that the defendants did not bring on record any notification in respect of the acquisition of the land or payment of any compensation to the land owners, including the plaintiff-appellant. It is also argued that Notification No.28 dated 26.07.1952 and Declaration No.34 dated 08.08.1952 had been purportedly issued in the year 1952 under the Patiala Land Acquisition Act, 1995 and it is beyond common understanding as to how such Notification and

Declaration could be issued under the 1995 Act. Learned counsel further argues that no evidence worth its name was produced by the defendants to prove the factum of payment of any compensation. Lastly, it is argued that all these material aspects were not taken into consideration by both Courts, which has resulted into manifest injustice to the appellant.

12. I have considered the submissions made by learned counsel for the appellant, but find the same to be devoid of any merit.

13. Both Courts found that the suit land was acquired for the purpose of construction of the drain namely “Dhikansu Nala Diversion Bund & Drain” by the State Government about 60 years back after issuing notification and declaration in this regard. It was further found that in the Jamabandi for the year 1962-63 in the column of ownership *Araji Matruqa Mahjareen*, had been shown and the entries of PWD had been reflected in the cultivation column. PW-2 Mohan Lal, admitted in his cross-examination that PWD was in possession of the suit land and the ‘*Ganda Nallah*’ (drainage) was constructed before his age of discretion and he did not know the Khasra number of the land in dispute. The factum of PWD being in possession of the suit land and issuance of a valid notification and declaration was also admitted by PW3-Nirmal Singh, Patwari. It was further found that the suit land had been acquired for the purposes of construction of the drain about 60 years back and that too by publication of notification and declaration in this regard and that if any person was aggrieved of the change in Khasra Girdawri, then he ought to have filed a suit before the Revenue Authorities, but no such

course was followed by the plaintiff. It was also found that the suit land had been acquired in the year 1952 and, therefore, the suit filed in the year 2015 was hopelessly time barred. Both Courts also found that no mandatory notice under Section 80 of the CPC was issued by the plaintiff before filing the suit.

14. As regards the plea of the appellant regarding non-payment of compensation in lieu of the acquisition of the suit land, it was found that merely because no record regarding the payment of any compensation of the land acquired about 60 years back, was not traceable, it would not be a ground to hold that no compensation had been paid. It was also found that the reflection of the name of the plaintiff in the column of ownership in the Jamabandi for the year 2012-13 was not proved by the plaintiff nor any certificate of sale; conveyance or any mutation entry had been proved by the plaintiff and as to how he became the owner in possession of the suit property.

15. Though the appellant has moved CM-9770-C-2025 for permitting him to produce additional evidence (Annexure A1 and A2) on record claiming the said documents to be copies of mutations, yet it could not be shown as to why these documents could not be produced before the Courts below. It could also not be explained as to what prevented the plaintiff from producing the said documents at the relevant time before the trial Court or before the first Appellate Court. Thus, this Court does not find that any case is made out for permitting the appellant to produce on record the said documents, as additional evidence.

16. The concurrent findings of facts recorded by both Courts below are based on the appreciation of evidence brought on record. It could not be pointed out that any evidence has been misread or not taken into consideration. Thus, I do not find that the findings recorded by the Courts below suffer from any patent illegality which may warrant interference by this Court in the present appeal.

17. In view of the aforementioned facts and circumstances, I do not find any merit in the present appeal and the same is accordingly dismissed.

18. Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

08.12.2025
ds

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