



RSA-2361-2018 (O&M)

-1-

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

(104)

RSA-2361-2018 (O&M)

Date of decision:- 07.01.2025

Harjit Kaur

...Appellant

Versus

Sham Kaur (since deceased) through LR and another ...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Gopal Singh Nahel, Advocate
for the appellant.

...

SUVIR SEHGAL, J. (Oral)

1. Appellant-plaintiff No.1 is in second appeal before this Court assailing the concurrent finding recorded by both the Courts below.

2. Plead case of the plaintiff is that Chanan Singh and Lachhman Singh, sons of Ran Singh, were the owners in possession in equal shares in 88 kanal, 10 marlas land in village Ranguwal, Tehsil and District Ludhiana. Chanan Singh, who was a bachelor, adopted plaintiff No.2, at the time of his birth and brought him up. Plaintiff No.2 was treated by Chanan Singh, as his natural son, and was married to plaintiff No.1. Chanan Singh died on 10.09.1973, and his last rites were performed by the plaintiffs. During his lifetime, he executed a Gift Deed dated 21.05.1965, in favour of plaintiff No.2, gifting him a land measuring 27 kanal, 5 marlas, and he was put in physical

possession of the said land. A WILL dated 25.08.1970, was also executed by



the deceased bequeathing his movable and immovable property in favour of plaintiff No.1. However, the original WILL could not be traced as it was in the possession of defendant No.1. In this way, plaintiff No.2, claimed that he became the owner of 53 kanal, 5 marlas. In so far as the remaining land is concerned, it has been claimed that the plaintiffs are in adverse possession for a period of more than 12 years continuously without any interruption and have become its full-fledged owners. Land measuring 26 kanal, 12 marls, was purchased by plaintiff No.2, from defendant No.1. Claiming to be owners in possession of the entire chunk of 82 kanal, 17 marlas of land, plaintiffs filed a suit for declaration to the effect that they are joint owners of the suit land and for permanent injunction restraining defendants No.1 and 2, from alienating the suit property.

3. Upon notice, defendant No.1 filed a written statement admitting the ownership of the land by Chanan Singh and Lachhman Singh. She acknowledged the sale of land measuring 26 kanal, 12 marlas to plaintiff No.2. It was admitted that plaintiff No.2, became the owner in possession of land measuring 53 kanal, 5 marlas. Defendant No.2 filed a separate written statement contesting the suit and raised various preliminary objections. It was submitted that Ran Singh was the owner of land measuring 88 kanal, and upon his death, his sons, Lachhman Singh and Chanan Singh, became owners to the extent of one-half share each. Both the sons expired on 23.11.1970, and 10.09.1973, respectively. Lachhman Singh executed a WILL dated 08.10.1969, in favour of his wife, Sham Kaur, who died issueless on 16.06.1996. Chanan Singh executed a WILL dated 07.09.1961, in favour of his sister-in-law, Sham



Kaur, defendant No.1, who became owner of land measuring 17 kanal, and mutation was entered in her name. Gift Deed dated 23.05.1965, in favour of plaintiff No.2, was admitted. Sale of some land by defendant No.1, in favour of plaintiff No.2, was also admitted. Some portion of land was sold by defendant No.1 to Bhupinder Singh and mutation was entered, which was contested by plaintiff No.2, as attorney of defendant No.1. It was denied that plaintiff No.2, was the adopted son of Chanan Singh. It was averred that the plaintiffs filed a Civil Suit No. 134/1988, titled Harjit Kaur etc. Versus Sham Kaur etc., claiming to be owners in possession of the suit property on the basis of the WILL and Gift Deed. After contest, suit was dismissed and the findings recorded by the Court operate as res judicata. Plaintiffs filed a replication to the written statement controverting the stand taken by the defendants.

4. On the basis of the pleadings of the parties, some additional issues were also framed. After contest, suit was dismissed by the Trial Court by judgment and decree dated 17.11.2014. Plaintiff No.1, remained unsuccessful before the First Appellate Court and the appeal filed by her was dismissed on 16.10.2017, resulting in the institution of the present second appeal.

5. I have heard counsel for the appellant and considered his submission besides examining the requisitioned record with his able assistance.

6. A perusal of the record shows that the appellant along with her husband, Ranjit Singh (plaintiff No.2) had at an earlier point of time filed a suit for declaration and permanent injunction claiming to be joint owners in cultivating possession of land measuring 88 kanal, 10 marlas, in village Ranguwal, Tehsil and District Ludhaina, i.e., the suit property, on the basis of



RSA-2361-2018 (O&M)

-4-

the registered WILL dated 25.08.1970, and Gift Deed dated 21.05.1965, executed by Chanan Singh, in their favour. Ownership of the remaining land was claimed on the basis of adverse possession. This suit was contested by the respondents as well as by their predecessors by leading evidence. By judgment and decree dated 30.09.2005, Annexure A-1, findings recorded in that suit was upheld by the learned Additional District Judge, Ludhiana, and the appeal filed by the plaintiffs was dismissed on 28.02.2014. The matter in issue in the previous suit as well as in the present suit is identical. Even the grounds on which the ownership has been claimed in both the suits are same. The findings recorded in the previous suit are, therefore, binding on the plaintiffs and the present suit is barred under the doctrine of res judicata. The appellant has deliberately concealed the factum of the decision of the earlier suit inter se the parties qua the same controversy. This Court, therefore, does not find any infirmity in the judgments and decrees passed by the Courts below, which are affirmed.

7. For the afore-going reasons, appeal is devoid of merit and is dismissed.

8. Pending application shall stand disposed of.

(SUVIR SEHGAL)
JUDGE

07.01.2025
Pardeep

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes