

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****121****RSA-1295-2020 (O&M)****Date of decision: 22.12.2025****Ram Kumar and others****...Appellant(s)****Vs.****State of Haryana and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Krishan K. Chahal, Advocate for the appellants.

NIDHI GUPTA, J.

Present second appeal has been filed by the plaintiffs against the concurrent judgments and decrees of the learned Courts below, whereby suit filed by the appellants for declaration and injunction, has been dismissed by both the Courts below.

2. Brief facts of the case are that the appellants had preferred the instant suit claiming themselves as owners in possession of the suit land measuring 172 K 8 M as described in the head note of the plaint. A further prayer for relief of injunction has also been made that defendants No. 1 to 3 and its officials be restrained from interfering, taking forcible possession of the suit land. It was the pleaded case of the plaintiffs that they are the sons of Jogi Ram; defendant No.4 is the widow of Jogi Ram; and defendants No. 5 to 8 are the daughters of Jogi Ram. It was pleaded that suit land was received by Jogi Ram by way of partition with his brothers vide Rapat No. 202 dated 22.02.1970 and since then, plaintiffs have been in cultivating possession of the same. Defendants No. 1 to 3



had come to their lands and started demarcating the land measuring 100K 7M out of total land measuring 172K 8M by stating that it was declared surplus by the then SDO (Civil)-cum-Surplus Officer, Hisar vide order dated 18.10.1977 (wrongly mentioned as 18.10.1973 in the plaint), pursuant to which Mutation No. 1778 dated 08.03.1984 was sanctioned in favour of the State regarding much more land than 100K 7M. Thereafter another Mutation was sanctioned in favour of defendants i.e. Haryana Government on dated 16.03.1991. It was pleaded that defendants No.1 to 3 declared that plaintiffs are duty bound to surrender vacant possession of the land in favour of defendants No.1 to 3, as they are wrongly coming in possession of the said surplus land. It was pleaded that thereafter, plaintiffs had obtained orders and Mutations from the Patwari and come to know about the order dated 18.10.1973 *sic* 1977 and the Mutations which had been passed without prior notice to the plaintiffs or their predecessor Jogi Ram. It was further pleaded that plaintiffs are owners in possession of land measuring 100K 7M of land or any other land shown in Mutation No. 1778 and they are in continuous, hostile and peaceful possession and that have also become owners by way of prescription possession and the title of this land measuring 172K 8M was perfected by way of transcription and they are entitled to get their names incorporated in the revenue record regarding the said land measuring 172K 8M as owners in possession; and the order alongwith Mutations are wrong, illegal, null and void and are not binding upon the rights of the plaintiffs. It was further pleaded that on 11.10.2013, officials of defendants No.1 to 3



had come to the spot and had threatened to take forcible possession of land measuring 100K 7M. With these pleadings suit was filed on 15.10.2013.

3. On the basis of pleadings of the parties, following issues were framed vide order dated 29.05.2014:-

“1. Whether the plaintiffs are entitled to the declaration to the effect that they are entitled to get their names incorporated in the revenue record regarding total land measuring 172 K 8 M as well as consequential relief of injunction as prayed for in the head note of the plaint? OPP

2. Whether the suit of the plaintiffs is false, frivolous and Vexatious? OPD

3. Whether the suit of the plaintiffs is time barred? OPD

4. Whether the plaintiffs have no cause of action to file the present suit? OPD

5. Whether the plaintiffs have no locus standi to file the present suit? OPD

6. Whether the plaintiffs are concealing the true facts? OPD

7. Whether the suit of the plaintiffs is not maintainable in the present form? OPD

8. Whether the plaintiffs are estopped to file the present suit by their own act and conduct? OPD

9. Whether the Civil Court has got no jurisdiction to try and entertain the present suit? OPD

10. Whether the suit of the plaintiffs is bad on account of non-joinder and mis-joinder of necessary parties? OPD

11. Relief.”

4. Upon appraisal of the pleadings and the evidence led by the parties, vide judgment and decree dated 07.09.2015, the learned Civil

Judge (Junior Division), Hisar had dismissed the suit of the plaintiffs with



costs. The Civil Appeal filed by the plaintiffs was dismissed by the learned Additional District Judge, Hisar vide judgment and decree dated 06.08.2019. Hence, the present second appeal by the plaintiffs.

5. It is *inter alia* submitted by learned counsel for the appellants that the defendants no.1 to 3 did not produce any order of the year 1973 vide which land of the appellants was declared surplus, as pleaded in preliminary objection No.2 of the written statement. Admittedly a civil suit titled as 'Jogi Ram and others versus Pohkar' for declaration was filed in the year 1966, in which the land was partitioned; and since then, the plaintiffs are cultivating the suit land as owners to the extent of 1/3 share each. The total land being 525 Kanal 4 Marlas, land measuring 172 Kanal 8 Marlas as detailed in the plaint came to the share of Jogi Ram and since then they are cultivating the same and till date they are in possession as owners. The learned trial court has completely failed to take into consideration the documents Ex. P-9, P-10 and P-11 respectively and thereby committed a legal error in recording finding against the plaintiffs.

6. Learned counsel for the appellants further submits that in the year, 1980 civil suit titled as 'Ram Kumar and others versus Jogi Ram' was filed seeking declaration that the plaintiffs and defendants are owners to the extent of 1/4th share each out of the land measuring 172 Kanal 8 Marlas. The said civil suit was decreed vide judgment and decree dated 3.1.1981 and on the basis of the said decree even Mutation was sanctioned and the appellants have been duly recorded to be the owners to the extent of 3/4th share out of 172 Kanal 8 Marlas. Thus, not an inch



of land was in excess of the permissible area either under the Punjab Security of Land Tenures Act, 1953 or under the Haryana Ceiling on Land Holdings Act 1972. Thus, the finding as recorded by the trial court under issue No.1 is totally perverse and contrary to the evidence on record and law applicable.

7. It is further submitted by learned counsel for the appellants that even the findings as recorded under issues 3 and 4 is totally perverse and contrary to the evidence on record. The learned trial court has observed in para-28 that admittedly, the orders under challenge pertain to the year 1973, 1984 and 1991 i.e. after more than 22 years of the passing of the last order and further observed that 36 years have passed from the date of passing the order dated 18.10.1977 which is under challenge and the order dated 18.7.1959 vide which the land was declared surplus. It is contended that, however, a bare perusal of the written statement filed by defendants 1 to 3 shows that there is not a whisper regarding order dated 18.7.1959, which did not see the light of the day. Though in the written statement reference has been made of an order allegedly passed in the year 1973 vide which land was declared surplus but no order has been placed on record.

8. It is further submitted by learned counsel that since the trial court has dismissed the suit by recording findings under issues 1, 3 and 4, which was totally perverse and result of non-consideration of the evidence and the pleadings of the parties. Therefore, the appellants filed appeal before the lower appellate court, and detailed grounds of appeal



were taken to challenge the judgment and decree of the trial court, but the lower appellate court had proceeded to ditto the finding as recorded by the trial court and dismissed the appeal.

9. It is accordingly prayed that the present appeal be allowed; and the impugned judgments and decrees of the Courts below be set aside.

10. No other argument is raised on behalf of learned counsel for the appellants. I have heard learned counsel and perused the case file in great detail. I find no merit in the submissions made on behalf of the appellants.

11. It has been contended on behalf of the appellants that no order dated 18.10.1973/18.10.1977 was produced by the defendants No. 1 to 3; and that no order dated 18.07.1959 was adverted to by the defendants in their written statement. However, as already noted above, plaintiffs have wrongly stated that suit land was declared surplus by the respondents vide order dated 18.10.1973. In actual fact, suit land was declared surplus by the official respondents vide order dated 18.10.1977 which was duly placed on record by the respondents as Ex.D2. Perusal of Ex.D2 reveals that land was declared surplus as per Haryana Ceiling on Land Holdings Act by order of Collector dated 18.07.1959. A certified copy of order dated 18.07.1959 passed by the then Revenue Assistant, Hisar exercising powers of Collector, Hisar was also placed on record as Ex.D4. Defendants had also placed on record Ex.D3, which is Rapat Rojnamcha No. 141 dated 14.01.1978 in which reference of order dated 18.10.1977



has been made, on the basis of which Mutation No. 1778 was sanctioned. The plaintiff has laid challenge to these orders by way of present civil suit which was instituted on 15.10.2013. Thus, suit of the plaintiffs was rightly held to be barred by limitation.

12. Contention of the plaintiffs that the said orders were passed/mutation was sanctioned without notice to the appellant is also without merit as a perusal of order dated 18.07.1959/ Ex.D4 clearly shows that in para 4 of the same, it is recorded that landowner Sh. Pokhar had denied receiving the said notice because of which he was proceeded against ex parte. As such, plaintiffs cannot plead that Mutation was sanctioned and order dated 18.07.1959 was passed without notice to the plaintiffs. Moreover, it is recorded in Rapat No. 141 dated 14.01.1978 Ex.D3 that prior to sanctioning of Mutation No. 1778, Munadi regarding grant of proprietary rights in favour of Government was carried out. Further, order dated 18.10.1977 finds mention in the Rapat Ex.D3.

13. Even otherwise, Plaintiffs were also unable to demonstrate as to how the said orders dated 18.07.1959 and 18.10.1977 were wrong in declaring the land surplus. The order dated 18.10.1977 Ex.D2 passed by the then SDO (Civil)-cum-Surplus Officer, Hisar makes it clear that the land measuring 132 Kanals was declared surplus by the Collector, Hisar vide order dated 18.07.1959 which vested in the Government under Section 12(3) of the Haryana Ceiling on Land Holdings Act 1972; and vide order dated 18.10.1977 Ex.D2, it was directed to get the Mutation sanctioned in the name of the Haryana Government; on the basis of which Mutation No.



1778 Ex.D1 was sanctioned in favour of Haryana Government in respect of the suit land on 08.03.1984. As per Rapat No. 141 dated 14.01.1978 Ex.D3, possession of the suit land was also delivered to the Government of Haryana. However, undisputedly plaintiffs continued to be in possession of the suit land. However, mere possession of the suit land would not vest any right to the plaintiffs.

14. Reliance of the plaintiffs upon Nehri Girdawari Ex.P1 to Ex.P4 is misplaced as the same is not a proof of ownership of the plaintiffs over the suit land and only reflects the possession of the plaintiffs over the suit property. It is not denied that revenue record/Jamabandi is in favour of defendants No.1 to 3. Needless to say, Girdawaris would not prevail over Jamabandi. As such, any possession of the plaintiffs over the suit property was unauthorised; and plaintiffs can derive no benefit or advantage from their unauthorised possession of the suit land.

15. It is argued on behalf of the plaintiffs that suit land already stood transferred to Jogi Ram/father of the plaintiffs by Sh. Pokhar vide Compromise Decree dated 02.08.1966 Ex.P11. It was further submitted on behalf of the plaintiffs that Jogi Ram and his 3 sons i.e. the plaintiffs had also equally divided the suit land between them vide Decree dated 03.01.1981 Ex.P15. However, the said argument is rightly rejected by learned Courts below as, from the above documentary evidence adduced by the respondents, it was proved on record that the land of Sh. Pokhar was already declared surplus vide order dated 18.07.1959. Furthermore, order dated 18.10.1977 was also passed prior to the Decree dated



03.01.1981 Ex.P15 passed between Jogi Ram and the plaintiffs, on the basis of which Mutation No. 1778 was sanctioned in favour of the respondent-Government.

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

17. In view of the above noted facts and findings, 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.**

18. Pending applications, if any, stand disposed of.

22.12.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

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