



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

**CR-6696-2024 (O&M)
RESERVED ON: 25.02.2025
PRONOUNCED ON: 10.03.2025**

Ram Sarup @ Sarup @ Ram Swaroop and OthersPetitioners

Versus

Jaswinder Kaur and OthersRespondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL.

Present: Mr. Shailendra Jain, Senior Advocate with
Mr. Munish Kumar, Advocate for the petitioners.

Mr. Akshay Jindal, Advocate and
Mr. Bhavya Vats, Advocate for the respondents.

VIKRAM AGGARWAL, J

The instant revision petition is directed against the order dated 18.09.2024 passed by the Court of learned Additional Civil Judge (Senior Division), Panchkula vide which the suit filed by respondents No. 1 to 3/plaintiffs under Section 6 of the Specific Relief Act, 1963 (for short 'the 1963 Act') for restoration of possession was decreed.

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

3. There is a famous proverb 'Blood is Thicker Than Water' which essentially means that familial bonds will always be stronger than other relationships. The oldest record of this well-known saying, as per Wikipedia, can be traced back to the 12th Century in the German language where it first appeared in the Medieval German Beast Epic 'Reinhart Fuchs' (English meaning 'Reynard the Fox'). In the good old times, familial bonds were strong. The young members of the family had enormous respect for the elders and the elders too were fair and caring. In most families, property disputes were looked down upon especially when disputes erupted between blood

relations and close family members. With time, with the rise in the prices of property, there has been a decline in values. Murders take place over property disputes and civil litigation has become the order of the day. No doubt, such litigation and disputes have existed since times immemorial but over the last quarter of a Century, such disputes have witnessed a sharp increase.

4. The present case is also a small example of such disputes. It is also sad that in many cases, no dispute arises till the time a person is living but the moment a person leaves the mortal frame, disputes erupt. In the present case, the dispute is between one whole family consisting of parents, one son the family of a pre-deceased son and two daughters on one side and the family of another pre-deceased son on the other. Ram Sarup @ Sarup @ Ram Swaroop (hereinafter referred to as 'Ram Swaroop') and Surinder Kaur @ Sarinder Kaur had three sons namely Jagdeep @ Jagdeep Singh, Swaran Singh and Harjinder Pal and two daughters namely Paramjit Kaur and Manjeet Kaur. The plaintiffs Jaswinder Kaur, Manpreet Kaur and Amandeep Singh are the wife and two children of Harjinder Pal. Harjinder Pal was murdered in 2009. Certain disputes erupted between the plaintiffs and the parents of Harjinder Pal and a string of litigation ensued, the details of which shall be mentioned later on.

5. The plaintiffs filed a suit under Section 6 of the 1963 Act for restoration of possession of portion of residential house situated in Village Jaisingh Pura, Sector 27, Panchkula (hereinafter referred to as the 'disputed property') as depicted by the letters GHIJ in the site plan (Ex. P-1). Consequential relief of permanent injunction restraining the defendants from alienating and transferring the possession of the disputed property was also sought.

Harjinder Pal and Swaran Singh had expired. Harjinder Pal, who was working as a Chowkidar in Post Office, Sector-1, Panchkula was murdered on 04.01.2009 while he was on duty. It was alleged that the defendant Ram Swaroop was holding joint family properties out of which, some properties had been acquired by the State of Haryana for the development of Sector-27, Panchkula. After the death of Harjinder Pal, relations between the plaintiffs and defendant No.1 became strained as a result of which litigation ensued.

7. On 03.09.2021, the defendants dispossessed the plaintiffs from the disputed property by breaking open the locks. They are alleged to have taken away the household articles and are also alleged to have taken illegal possession of the same. Complaints were preferred to the police and other authorities but no action was taken. The police, instead of taking action against the defendants, challaned plaintiff No.1 under Section 107/150 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'). However, since no further action was taken on the complaints, the suit was filed.

8. The suit was opposed by the defendants. Defendants No.1 to 4 (Ram Swaroop, Surinder Kaur @ Sarinder Kaur, wife of Ram Swaroop, Jagdeep @ Jagdeep Singh) and Harjinder Kaur, wife of Jagdeep @ Jagdeep Singh filed a joint written statement. Certain preliminary objections regarding maintainability, cause of action, the suit being barred, the plaintiffs having no cause of action etc. were raised. The basic stand that was taken was that Ram Swaroop and his wife had constructed houses over property comprised in Khasra No.212 measuring 1 Kanal 12 Marlas out of their love and affection for their sons and gave equal shares to all sons and daughters as depicted in the site plan (Ex. R-1). Portion MNOP in Ex. R-1 had been given to Harjinder Pal who was residing there with his family. Unfortunately, Harjinder Pal was

wife and other family members on one pretext or the other and forcibly encroached upon the portion Marked OQRS upon which two rooms had been constructed by Ram Swaroop which were lying vacant. It was also averred that during the lifetime of Harjinder Pal, Ram Swaroop had given equal share of ancestral property to all his sons and daughters. The plaintiffs, however, did not vacate the portion OQRS and litigation ensued.

9. In a family meeting held on 03.08.2021, it was decided that the possession of the disputed property would be handed over to Ram Swaroop and pursuant to the same, the possession was handed over. It was also settled that regarding distribution of self-acquired agricultural land, which was purchased by defendant No.1 from the compensation amount received on account of acquisition of another property, Ram Swaroop would remain its owner in possession during his lifetime and after his death, all properties would be inherited in equal shares by all legal heirs which would include the plaintiffs. It was also agreed that the settlement would be reduced into writing and the pending litigation would be decided in terms thereof. However, the appeal filed by Ram Swaroop against the judgment and decree dated 13.09.2017 was dismissed on 02.09.2021 and immediately upon dismissal of the same, the plaintiffs started demanding their share in the compensation amount and other properties and then filed the suit after having submitted a false complaint to the police. On merits also, a similar stand was taken.

10. In the replication, averments made in the written statement were denied and those made in the plaint were reiterated.

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

“1. Whether the plaintiffs are entitled to a decree for possession, as prayed for? OPP

2. If issue no.1 is proved, then whether the plaintiffs are entitled to a decree for permanent injunction, as prayed for? OPP

3. Whether the suit of the plaintiffs is not maintainable? OPD

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

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

6. Whether the plaintiffs are estopped by their own act and conduct on filing of present suit? OPD

7. Whether the suit of the plaintiffs is barred under Specific Relief Act? OPD

8. Whether the plaintiffs have not come to the court with clean hands and suppressed the true and material facts from the Court? OPD

9. Whether the suit is not valued properly for the purpose of proper court fee? OPD

10. Relief.”

12. Parties led extensive evidence. The plaintiff appeared as PW-1 and produced a number of documents. On the other hand, the defendants examined two witnesses namely Surinder Kaur @ Sarinder Kaur and Manjeet Kaur and also produced a number of documents.

13. The trial Court decreed the suit, leading to the filing of the present revision petition.

14. Learned counsel for the parties were heard.

15. It was strenuously urged by Sh. Shailendra Jain, learned Senior counsel representing the petitioners/defendants that the trial Court had erred in decreeing the suit. Learned counsel referred to the site plan and the other documents on record which include various judgments and decrees passed in the litigation that ensued between the parties. Reference was also made to the cross-examination of the plaintiff Jaswinder Kaur. It was pointed out that she had admitted in her cross-examination that the possession was taken over from her in August 2021 whereas in the plaint, she had claimed that she had been dispossessed from the disputed property on 03.09.2021. Learned Senior

counsel submitted that once the exact date of dispossession was not forthcoming and had in fact been concealed, the suit could not have been decreed. Learned Senior counsel submitted that for a suit filed under Section 6 of the 1963 Act, two vital elements were required to be proved by the plaintiffs which were the specific date till which the plaintiffs were in possession and the specific and precise date of dispossession.

16. It was also submitted that the nature of possession was also required to be gone into, for, the plaintiffs were not owners of the suit property. It was submitted that at no point of time had any suit for declaration *qua* ownership of the residential property and the disputed property been filed and Ram Swaroop/defendant No.1 was reflected as the sole owner of the land on which the property was constructed, as per Jamabandi for the year 2019-2020 (Ex. R-2). Learned Senior counsel also submitted that upon a complaint having been submitted by the plaintiff, the matter was inquired into by the police and upon investigation, it was the plaintiff who was challaned under Section 107/150 Cr.P.C. and report (Ex. RX) was submitted wherein it was clearly stated that the complaint regarding forcible possession having been taken by the defendants was false.

17. Learned Senior counsel further submitted that it was pursuant to an oral family settlement which was yet to be recorded in writing that the possession of the disputed property had been handed over by plaintiff No.1 to the defendants on 03.08.2021 and it was on account of this fact that defendant No.1 did not pursue his appeal which was ultimately dismissed on 02.09.2021. After the dismissal of the said appeal, the plaintiffs backed out of the oral settlement and made an attempt to take back the possession of the disputed property. Learned Senior counsel submitted that the trial Court did not

consider the cogent evidence led on the record of the case by the defendants

and place undue reliance upon the evidence led by the plaintiffs. Learned Senior counsel submitted that the decision of the trial Court is not sustainable and deserves to be set aside. In support of his contentions, learned Senior counsel placed reliance upon the judgment passed by the Supreme Court of India in the case of '*Anima Mallick Vs. Ajoy Kumar Roy and Another*' 2000 (4) SCC 119, judgment passed by this Court in the case of '*Satpal Singh and Another Vs. Gurmej Singh and Another*' 2019 (2) PLR 379, judgments passed by the Gauhati High Court in the cases of '*Kameswar Deka Vs. Gajen Deka and Others*' 2010 (20) RCR (Civil) 98, '*Sri Madhusudhan Paul and Others Vs. Shri Ganesh Biswas S/o Late Girish Biswas, R/o Laluk Padumoni, Mouza and P.S. Laluk, District-Lakhimpur*' 2015 (33) RCR (Civil) 880, '*On the Death of Sukhlal Roy, His Legal Heirs, Sachindra Roy and Others Vs. On the Death of Bhabesh Chandra Roy, His Legal Heirs Smti Basanti Roy and Others*' 2015 (76) RCR (Civil) 505 as also the judgment passed by the Andhra Pradesh High Court in the case of '*Sham Sunder Rao and Others Vs. Sri. Saraswathi Vidya Peetham, Hyderabad*' 2002 (4) ALT 645.

18. *Per contra*, learned counsel representing the respondents/defendants submitted with equal vehemence that there is no illegality in the decision under challenge. He also referred to the oral and documentary evidence led on the record of the case as also to the litigation that had ensued between the parties over a period of time. He submitted that the chain of events would show that the plaintiffs were in actual physical possession of the disputed property and they were dispossessed, which led to the filing of the suit. It was submitted that the version put forth by the defendants that the possession of the disputed property had been handed back

of logic and does not have the force of law. It was submitted that it is totally unacceptable that the parties who were at logger heads for so many years would orally settle the matter and after the dismissal of the appeal filed by defendant No.1, the plaintiffs would hand over the possession of the disputed property voluntarily.

19. Learned counsel submitted that the trial Court had examined the matter from all angles and had rightly decreed the suit. In support of his contentions, he placed reliance upon the judgment passed by the Supreme Court of India in the case of '*Sudhir Jaggi Vs. Sunil Akash Sinha Choudhary*', 2004 (4) RCR (Civil) 241 as also judgments passed by this Court in the cases of '*Dr. Surinder Singh Talab Vs. Bua Dass (died) Through LRs.*', 2005 (1) RCR (Civil) 498 and '*Hira Singh Vs. Swaran Kaur and Others*', 2015 (8) RCR (Civil) 646.

20. I have considered the submissions made by learned counsel for the parties.

21. Section 6 of the 1963 Act lays down as under:

"6. Suit by person dispossessed of immovable property-

(1) If any person is dispossessed without his consent of immovable property otherwise than in due course of law, he or any person [through whom he has been in possession or any person] claiming through him may, by suit, recover possession thereof, notwithstanding any other title that may be set up in such suit.

(2) No suit under this section shall be brought-

(a) after the expiry of six months from the date of dispossession; or

(b) against the Government.

(3) No appeal shall lie from any order or decree passed in any suit instituted under this section, nor shall any review of any such order or decree be allowed.

(4) Nothing in this section shall bar any person from suing to establish his title to such property and to recover possession thereof."

22. There is no dispute as regards the description of the property, for, portion mentioned as GHIJ as depicted in the site plan (Ex. P-1) is the same as the portion mentioned as OQRS as depicted in the site plan (Ex. R-1). It is not in dispute that there was a string of litigation which ensued between the parties. The details of the said litigation have been given in the grounds of revision:

Sr. No.	Particulars of litigation	Relief claimed/granted
1.	CS/181/05.05.2010 by plaintiffs against defendants, which was dismissed in default on 02.03.2013.	During the pendency of the civil suit, a compromise took place between both the parties in a Biradari Panchayat on 12.09.2010 deciding that the plaintiffs are entitled to 1/6 th share in respect of movable and immovable properties including the compensation amount payable to the defendant No.1 in lieu of the property acquired by the State of Haryana for the Development of Sector-27, Panchkula.
2.	CS/324/2014 filed by defendant No.1 against plaintiffs No.1 dismissed vide judgment and decree dated 03.08.2015 (Ex. P4 and Ex. P5) by Ld. CJ (JD), Panchkula.	1. Civil Suit for mandatory injunction directing defendant No.1 to vacate the premises marked as GHIJ shown in the site plan in red color attached with the plaint. 2. Appeal bearing No.CA/1552/2015 against the judgment and decree dated 03.08.2015 (Ex. P4 and Ex. P5) was also dismissed vide judgment and decree dated 25.02.2016 (Ex. P2 and Ex. P3) by Ld. ADJ, Panchkula.
3.	CS/591/2015 by the plaintiffs against the defendants decreed vide judgment and decreed dated 13.09.2017 (Ex. P6 and Ex. P7) by Ld. ACJ (SD), Panchkula.	1. Civil Suit for declaration, mandatory injunction and permanent injunction that they are owners of 1/6 th share in the movable or immovable properties held by the defendant No.1 2. The appeal bearing No.CA/259/2017 filed by the defendant No.1 against the respondents and against the judgment and decree dated 13.09.2017 (Ex. P6 and Ex. P7) was dismissed vide judgment and decree dated 02.09.2021 (Ex P8 and Ex. P9) passed by Ld. ADJ, Panchkula. 3. RSA No.997 of 2022 filed by petitioners against judgment and decree dated 02.09.2021 (Ex. P8 and Ex. P9) passed by Ld. ADJ, Panchkula is pending before this Hon'ble High Court and the executing court has been directed to adjourn the case beyond the date fixed before the court, meanwhile vide order dated 10.05.2022. 4. An execution application against the judgment and decree dated 13.09.2017 (Ex. P6 and Ex. P7) by Ld. ACJ (SD),

		Panchkula is pending before Executing Court of Ld. ACJ (SD), Panchkula.
4.	CS/672/2015 filed by defendant No.1	Civil Suit for challenging the compromise dated 12.09.2010, which is yet pending adjudication.

23. The aforesaid table would show that disputes are going on between the parties for the last 15 years and by and large, matters have been decided in favour of the plaintiffs. In the first suit initiated by the plaintiff, depicted at Sr. No. 1 of the table, a compromise is stated to have been arrived at between the parties as per which it was decided that the plaintiffs were entitled to 1/6th share in the movable and immovable property including compensation payable to defendant No.1.

24. In the suit filed in the year 2014, depicted at Sr. No.2, defendant No.1 Ram Swaroop was non-suited and the relief of mandatory injunction directing the plaintiffs to vacate the same portion i.e. the disputed property was dismissed and appeal against the said judgment and decree was also dismissed. In the suit filed by the plaintiffs in 2015, depicted at Sr. No.3, a declaration was issued that the plaintiffs were owners of 1/6th share in the movable and immovable property of defendant No.1.The appeal filed by the defendant was dismissed on 02.09.2021 and regular second appeal is pending. An execution petition has also been preferred by the plaintiffs which is also pending. There is yet another suit initiated by defendant No.1 challenging the compromise entered into on 12.09.2010 during the pendency of the first suit which is pending adjudication. Then came the present suit preferred under Section 6 of the 1963 Act.

25. One thing which emerges from all the litigations that ensued between the parties is that that plaintiffs were in possession of the disputed property. Now comes the issue as to whether they were dispossessed or they

had handed over possession voluntarily. As per the defendants, an oral family settlement had been arrived at pursuant to which the defendants handed over the possession on 02.08.2021 but after the dismissal of appeal on 02.09.2021, they instituted the present suit. This version seems to be totally unacceptable because if some family settlement had been arrived at, some writing must have been executed because parties were at logger heads for the last 15 years and nobody, under such circumstances, would be having faith on each other. It is extremely hard to accept that under such circumstances, the plaintiffs would hand over possession of the disputed property voluntarily to the defendants. Why the settlement was not reduced into writing has not been explained. Why the appeal was dismissed without there being any mention of the said settlement during the course of the appeal has also not been explained. The version of the defendants is completely oral and not supported by any evidence worth its name.

26. The argument that the specific date of dispossession is not known, for, plaintiff No.1 had admitted in her cross-examination that possession had been taken from her in August 2021 will not cause any dent in the case of the plaintiffs. It has to be borne in mind that the cross-examination has to be considered as a whole and no part of it can be considered in isolation. The fact remains that dispossession was there. The matter was reported to the police as well. No doubt, the police gave a report (Ex. RX) that no forcible dispossession was there but that mere report cannot be accepted as a gospel truth because such a report is based upon the statements made by persons present at a particular place. It is not unknown that a widow and her two children would have less support as compared to the defendants who had been living in the area for a number of years and in any case, a lady without husband has less support as compared to others. The fact remains that the suit

was instituted within a period of six months from the dispossession, be it August 2021 or September 2021. Under the circumstances, the specific date of dispossession would be comparatively irrelevant here and that too merely because in the cross-examination, the plaintiff had stated that possession had been taken over from her in August 2021. The argument is, therefore, devoid of merit and is rejected.

27. The plaintiffs not being the owners of the disputed property is also not relevant, for, it is the question of dispossession which is important in a suit filed under Section 6 of the 1963 Act and the question of title, in the considered opinion of this Court, would be irrelevant. In taking this view, I draw support from a judgment of the Apex Court in the case of '**Sudhir Jaggi Vs. Sunil Akash Sinha Choudhary**', 2004 (4) RCR (Civil) 241. In this case, a categorical view was taken by the Supreme Court of India while relying upon a judgment of the Calcutta High Court in the case of '**Raj Krishna Parui Vs. Muktaram Das**', [(1910) 12 Calcutta Law Journal 605], wherein it had been held that the question of title was immaterial and the relevant issue was possession. Further, even a trespasser in settled possession is not required to prove his title over the suit land but is only required to prove lawful long possession. It was so held by the Supreme Court of India in the case of '**Rame Gowda (D) by Lrs. Vs. Mr. Varadappa Naidu (D) by Lrs. and Anr.**', 2004 (1) SCC 769. Further, as per the provisions of Section 6 (3) of the 1963 Act, no appeal lies from an order or decree passed in any suit instituted under the said provision. It was held by the Supreme Court of India in the case of '**I.T.C. Limited Vs. Adarsh Coop. Housing Soc. Ltd.**', 2013 (10) SCC 169 that proceedings under Section 6 of the 1963 Act are of summary nature and since no appeal or review is maintainable against a decision rendered under the said

provision, only the remedy of revision under Section 115 CPC is available and

that too in exceptional cases.

28. The learned trial Court examined the matter from all angles and returned a well-reasoned finding based upon correct appreciation of evidence. I have found nothing in the impugned judgment and decree which could have even *prima facie* led this Court to interfere in revisional jurisdiction. There is absolutely no jurisdictional error in the judgment and, therefore, I do not find any reason to exercise the revisional jurisdiction conferred on this Court by virtue of Section 115 of the Code of Civil Procedure, 1908.

29. I have gone through the judgments relied upon by both sides. The basic stress in the judgments relied upon by learned Senior counsel representing the petitioners is on the issue of the specific date of dispossession which, for, reasons mentioned in the preceding paragraphs would not apply to the facts of the present case because in any case, the civil suit was filed within a period of six months. Still further, the other judgments would also not come to the aid of the petitioners, for, they were given in the facts of each case which were completely different from the facts in the present case. I do not deem it essential to refer to those judgments in detail keeping in view the clear facts which have emerged in the present case from the evidence led by the parties.

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

Pending application(s), if any, also stands disposed of.

(VIKRAM AGGARWAL)
JUDGE

Pronounced on: 10.03.2025
Prince Chawla

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