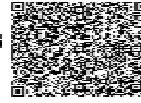


2026:PHHC:026363



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

RSA-283-2025 (O&M)
Date of Decision: 18.02.2026

Swaran Singh

...Appellant

Versus

Charan Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Balwant Singh, Advocate, for the appellant.

VIKRAM AGGARWAL, J

CM-869-C-2025

Prayer in the present application under Section 5 of the Limitation Act is for condonation of 167 days' in filing the appeal.

For the reasons given in the application, which is duly supported by an affidavit of the appellant, the same is allowed and the delay of 167 days in filing the appeal is condoned, subject to all just exceptions.

RSA-283-2025

This is plaintiff's appeal against the judgment and decree dated 25.04.2024 passed by the Court of Additional District Judge, Rupnagar, dismissing the appeal against the judgment and decree dated 23.09.2019 passed by the Court

of Additional Civil Judge (Senior Division), Rupnagar, vide which the suit of the plaintiff 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 permanent injunction restraining the defendants from interfering in the peaceful possession of the plaintiff over the property (fully described in the plaint) situated at village Ferozepur, Tehsil Chamkaur Sahib, District Rupnagar [hereinafter referred to as 'the suit property'] and further restraining them from forcibly and illegally dispossessing the plaintiff from the suit property.

3(i). It was claimed by the plaintiff that he was owner in possession of the suit property and had raised construction over it, besides planting trees upon it. It was further the case of the plaintiff that previously the suit property was owned by his father and after his death in 1998, the same was inherited by him. It was further asserted that the plaintiff had been using the suit property as a *bara* (enclosure) for tethering cattle. Nobody had ever raised any objection regarding possession of the plaintiff and his ownership over the suit property.

3(ii). It was asserted by the plaintiff that defendant No.5, Sarpanch of Gram Panchayat of village Ferozepur, was inimical towards him due to the reason that the plaintiff had once appeared as a witness in a criminal case against the said defendant. On account of the same, the said defendant, in connivance with the other defendants, wanted to encroach

upon the suit property so as to make it a street and for the said purpose they had also collected construction material near the suit property. Repeated requests by the plaintiff to the defendants to desist from doing so, were not paid any heed to by the defendants.

4. The defendants contested the suit by filing a written statement taking preliminary objections regarding maintainability; jurisdiction; locus standi and the plaintiff having concealed true and material facts from the Court.

4(i). On merits, it was averred that the suit property was a *Shamlat* land (*Gair Mumkin Rasta*) bearing Khasra No. 1030, owned by the Gram Panchayat and the plaintiff did not have any concern with the same. It was further the case of the defendants that the property of the plaintiff was far away from the main street and on the northern side of Khasra No. 1030, there was *Bachat* (surplus) land of the Gram Panchayat. The plaintiff wanted to encroach on the said surplus land by constructing a cattle shed, but the Gram Panchayat did not permit him to do so. It was asserted that the plaintiff had concealed the factum of construction of a culvert by the Gram Panchayat over the drain connecting the main street with the passage bearing Khasra No.1030 leading to the village pond. All the inhabitants of the village used the said passage for taking their cattle to the village pond. It was further averred that in view of Section 13-B of the Punjab Village Common Lands (Regulation) Act, 1961 (for short 'the 1961 Act'), the jurisdiction of the Civil Court was barred.

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

1. Whether plaintiff is entitled to the relief of permanent injunction as prayed for? OPP
2. Whether suit is not maintainable in its present form and deserves to be dismissed?
OPD
3. Relief.

6. Parties led their respective evidence.

7. The trial Court dismissed the suit vide judgment and decree dated 23.09.2019. The appeal filed by the plaintiff was also dismissed vide judgment and decree dated 23.09.2019 passed by the first Appellate Court.

8. I have heard learned counsel for the appellant and have also perused the record.

9. Learned counsel for the appellant submits that both Courts gravely erred in not appreciating the fact that the plaintiff, by leading cogent and convincing evidence proved on record, that the suit land was owned by him. Learned counsel further argues that once the nature of the suit property stood proved, the finding of both Courts that the property was not identifiable, is totally perverse. It is further argued that merely because the Gram Panchayat had constructed a drain on the suit land, would not be sufficient to change the nature of the land to be that of *Shamlat* land. It is also argued that once the first Appellate Court set aside the finding of the trial Court on the question of jurisdiction, it was incumbent upon the first Appellate Court to set aside the findings regarding ownership of the suit property as well, which as per the

evidence on the record, was proved to be owned and possessed by the plaintiff.

9(i). It is also argued that the demarcation reports submitted by the revenue officials were misinterpreted by both Courts to hold that the suit property is a surplus land and that the appellant-plaintiff had no concern with the suit property.

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

11. Both Courts found that the plaintiff had failed to prove the proper identification of the suit property for want of dimensions and boundaries. It was found that the rough site plan (Exhibit P.1) produced by the plaintiff, was not proved on record and in the other site plan Ex. PW4/A tendered into evidence by the plaintiff, the concerned draftsman (Karnail Singh) was examined as PW4, but the same did not bear the dimensions 'ABCD' as mentioned in the plaint.

12. It was further found that on the other hand, the defendants produced and proved on record jamabadis for the years 2003-04 (Ex.D.18) and 2013-14 (Ex.D.19), pertaining to Khasra No. 1030, wherein the said Khasra number was shown to be as *Panchayat Deh Rasta Sareaam*, with the last demarcation having been done by Naib Tehsildar on 22.08.2016 in the presence of both parties. It was further found that the report of the Local Commissioner showed that there was a joint statement of the villagers to the effect that at

the time of making the drain, persons residing on both sides of the drain had left 2.5 feet land and then raised the construction of their houses.

13. It was also found that though the plaintiff had raised objections against the report(s) of the Local Commissioner(s), yet he had failed to prove that the suit property was owned and possessed by him and that no passage comprised in Khasra No. 1030 was running through the suit property abutting the drain.

14. The first Appellate Court, however, set aside the finding of the trial Court on the issue of jurisdiction, holding that the suit was a simpliciter suit for permanent injunction and the provisions of Section 13 of the 1961 Act would not be attracted.

15. Learned counsel for the appellant could not point out any illegality in the findings recorded by the Courts below, which may warrant interference by this Court in the instant appeal. It could not be pointed out that any evidence has been misread or not taken into consideration.

16. For the reasons aforementioned, I do not find any merit in the present appeal and the same is, accordingly, dismissed.

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

(VIKRAM AGGARWAL)
JUDGE

18.02.2026
ds

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