

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

RSA-2063-2002**Ramesh Chand and others**

. . . . Appellants

Vs.**Dharam Singh and others**

. . . . Respondents

Reserved on: 02.04.2026**Pronounced on: 20.04.2026****Pronounced Fully/Operative Part: Fully**

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Ashish Gupta, Advocate, for the appellants.

Mr. Arun Singla, Advocate, for the respondents.

DEEPAK GUPTA, J.

The present Regular Second Appeal has been preferred by the plaintiffs, assailing the judgment & decree dated 28.02.2002 passed by the learned First Appellate Court of learned Additional District Judge, Panipat, whereby the suit for possession by way of redemption, earlier decreed by the trial Court vide judgment dated 24.08.1996, came to be dismissed, thus allowing the appeal of defendants.

2. For the sake of convenience, the parties are referred to as per their status before the trial Court.

3. The plaintiffs instituted the suit seeking possession by way of redemption of land measuring 13 kanal 7 marla situated in village Jalmana, Tehsil Panipat as detailed in the plaint and reflected in the Jamabandi for the year 1982-83.

4.1 As per the case set up by the plaintiffs, the suit land was allotted to them during consolidation proceedings in lieu of old Khasra Nos. 142, 400, 182,

198 and 199. It is pleaded that Baja and Soran, sons of Sodagar, had originally mortgaged the suit land with possession in favour of Bundi, Bholu and Soran, sons of Mohan, for a consideration of ₹1425/-, which was duly reflected through mutation Nos. 367 dated 10.01.1924, and 535 dated 24.12.1930. Subsequently, Baja and Soran are stated to have sold the said land, along with Khasra No.150, to Bundi and Bholu for a consideration of ₹1600/-, vide a sale deed sanctioned through mutation No. 695 dated 28.03.1942. Thereafter, Bundi, Bholu and Soran further transferred the property in favour of their brother Tota for a consideration of ₹3000/- vide mutation No. 781 dated 15.05.1943.

4.2 The plaintiffs further aver that Lalu son of Badama, claiming himself to be a collateral of Baja and Soran, instituted Civil Suit No. 465 of 1943 challenging the aforesaid alienation on the ground that the parties were governed by customary law, the property was ancestral in nature, and the sale was without consideration, thereby not binding on his reversionary rights. The said suit, according to the plaintiffs, was decreed on 05.04.1944, declaring the sale deed dated 28.03.1942 as not binding upon the reversionary rights of Lalu.

4.3 It is further pleaded that Baja died on 24.05.1987, whereas Soran had not been heard of in the village for more than seven years and was, therefore, presumed to be dead. Claiming themselves to be successors-in-interest of Lalu, who died on 20.08.1962, the plaintiffs assert their entitlement to redeem the mortgage and recover possession of the suit land on payment of ₹1425/-.

5.1 The defendants-respondents contested the suit by specifically challenging the locus standi of the plaintiffs. It is their case that after the death of Soran, his natural heirs had already instituted Civil Suit No. 226 of 1985 on 01.04.1985, which came to be dismissed on 14.11.1985. It is contended that in the presence of Class-I legal heirs of Soran, the plaintiffs, being merely remote reversioners, have no legal right either to institute the present suit or to claim possession of the suit land or any land alleged to have been allotted in lieu of the old khasra numbers.

5.2 The defendants have further disputed the very identity of the suit property, asserting that the land described in the headnote of the plaint has not been proved to have been allotted during consolidation in lieu of the earlier khasra numbers. They have also denied the alleged right of Lalu to seek possession after the death of Soran and Baja, and have specifically refuted the claim that the plaintiffs are legal heirs of Lalu. On these premises, along with denial of other material averments, the defendants prayed for dismissal of the suit.

6. Upon framing of the issues and appreciation of evidence led by the parties, the trial Court decreed the suit. However, the First Appellate Court, being the final Court of facts, undertook a comprehensive reappraisal of the entire evidence and reversed the findings, thereby dismissing the suit.

7. Learned counsel for the appellants–plaintiffs, while assailing the judgment of the First Appellate Court, contends that the finding regarding non-identification of the suit property is erroneous. It is argued that the land described in the headnote of the plaint corresponds to the land referred to in the earlier judgment of 1942 suit. Reliance is also placed upon the jamabandi for the year 1960–61 (Exhibit P3) to contend that the identity of the property stands corroborated and therefore, the conclusion that the suit land was not proved to have been allotted during consolidation is unsustainable. It is further submitted that the relationship of the plaintiffs with Lalu stands duly established from the testimonies of the defendants’ own witnesses. Ld. Counsel also contends that dismissal of the earlier suit was merely for non-compliance and would not operate as a bar under Order IX Rule 5(2) CPC. Additionally, it is argued that there is sufficient evidence on record, including admissions of the defendants’ witnesses, to establish that Baja and Soran had expired. On these premises, it is prayed that the judgment of the First Appellate Court be set aside and that of the trial Court be restored.

8. *Per contra*, learned counsel for the respondents–defendants supports the impugned judgment and submits that the plaintiffs have failed to establish the identity of the suit land, as rightly held by the First Appellate Court.

It is further argued that the plaintiffs have not proved their relationship with Lalu in the absence of any cogent evidence such as a pedigree table or supporting revenue record. The principal contention advanced is that even assuming the plaintiffs to be successors of Lalu, they, being remote reversioners, have no enforceable right in the presence of Class-I legal heirs of Soran, whose existence stands proved on record. It is further contended that the alienation in question, though set aside at the instance of Lalu, does not confer any right upon the plaintiffs once succession has opened in favour of the direct heirs. On these grounds, it is prayed that the appeal be dismissed and the judgment of the First Appellate Court be upheld.

9. This Court has considered the rival submissions and perused the record.

10. The controversy in the present case essentially revolves around three pivotal aspects: (i) identity of the suit property post-consolidation; (ii) status of the plaintiffs as heirs of Lalu; and (iii) their entitlement to seek redemption in the presence of Class-I heirs of Soran.

11. *Firstly*, with regard to the identity of the suit land, the First Appellate Court rightly held that the burden lay upon the plaintiffs to establish that the land presently claimed corresponds to the land originally mortgaged or alienated prior to consolidation. In cases involving consolidation, such identity can only be established through cogent revenue records such as Khatoni Istemal, Naksha Haqdari and Khatoni Paimaish. The plaintiffs failed to produce any such documentary evidence. Mere reliance on Jamabandi entries does not suffice to establish correlation of pre- and post-consolidation holdings. Consequently, the finding that identity of the suit property remained unproved is based on sound appreciation of evidence and calls for no interference.

12. *Secondly*, the plaintiffs also failed to establish their status as legal heirs of Lalu. No pedigree table, revenue record, or other admissible evidence was produced to substantiate such relationship. The claim rests merely on oral assertions, which, in absence of corroboration, cannot be accepted. The First

Appellate Court, therefore, rightly concluded that the plaintiffs failed to discharge the burden of proving their lineage.

13. *Thirdly*, and most importantly, even assuming for the sake of argument that the plaintiffs are successors of Lalu and that the identity of the suit land is established, their claim still cannot succeed in law. The evidence on record unequivocally establishes that Soran left behind his widow, sons, and daughters, who constitute Class-I heirs under the Hindu Succession Act, 1956. It is a settled principle that succession opens in favour of the nearest heirs, and the estate vests in such heirs immediately upon the death of the last holder.

14. In this context, the concept of reversionary rights, as understood under customary law, stands significantly diluted after the enactment of the Hindu Succession Act. Sections 3 and 4 of the Act override any contrary custom, and succession is governed strictly by statutory provisions. Thus, once Class-I heirs are available, a remote reversioner cannot claim any right in derogation thereof.

15. *Further*, it is well settled that a declaratory decree obtained by a reversioner merely removes the obstacle to succession and enures for the benefit of the actual heir, who succeeds when succession opens. It does not confer any independent right of possession upon a remote reversioner in the presence of closer heirs. Therefore, even if Lalu had obtained a declaratory decree, the benefit thereof would accrue to the rightful heirs of Soran at the time of succession, and not to the plaintiffs.

16. Additionally, the evidence on record, including admissions made by the plaintiffs' own witnesses, clearly establishes the existence of sons and daughters of Soran. Such admissions constitute substantive evidence and further strengthen the case of the defendants. The plaintiffs did not effectively challenge this evidence in cross-examination, thereby lending credence to the defendants' version.

17. The question of limitation also operates against the plaintiffs. Even if the claim is treated as one for redemption, the suit instituted decades after the relevant transactions and decree, is clearly beyond the prescribed period. The

First Appellate Court has rightly invoked Section 3 of the Limitation Act to hold the suit barred by time.

18. In view of the aforesaid discussion, it is evident that the plaintiffs neither proved their title nor their entitlement to redeem the suit property. The findings recorded by the First Appellate Court are based on proper appreciation of evidence and correct application of law. No substantial question of law arises for consideration in the present appeal.

19. Accordingly, this Court finds no merit in the present Regular Second Appeal. The same is hereby dismissed, with parties left to bear their own costs. Pending applications, if any, also stand disposed of.

(DEEPAK GUPTA)
JUDGE

20.04.2026

Vivek

<i>Whether Speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>

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