



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

RSA-1491-1988
RSA-2180-1988
RSA-1168-1989
Reserved on : 03.11.2025
Pronounced on : 27.01.2026

1. RSA-1491-1988

RANDHIR SINGH (SINCE DECEASED) THROUGH LRS

....Appellant

Versus

JAGDISH AND ANOTHER

...Respondents

2. RSA-2180-1988

JAI SINGH AND ANOTHER

....Appellants

Versus

RANDHIR SINGH (SINCE DECEASED) THROUGH LRS

...Respondent

3. RSA-1168-1989

RANDHIR SINGH (SINCE DECEASED) THROUGH LRS

....Appellant

Versus

JAGDISH

...Respondent

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Rajinder Goel, Advocate for appellant in RSA-1491-1988.

Mr. J.S. Bhatia, Advocate for appellant in RSA-1168-1989.

Mr. Ashish Aggarwal, Senior Advocate with

Mr. Saket Bhandari, Advocate and

Mr. S.N. Pilania, Advocate for appellant in RSA-2180-1988.

Mr. Ashish Aggarwal, Senior Advocate with

Mr. Saket Bhandari, Advocate and
Mr. S.N. Pilania, Advocate for respondent in RSA-1491-1988
& RSA-1168-1989.

Mr. J.S. Bhatia, Advocate for respondent in RSA-2180-1989.

Parmod Goyal, J.

This judgment of mine shall decide three Regular Second Appeals pertaining to same property between the same set of parties. All the three appeals have arisen from suits preferred by plaintiff/Randhir Singh who is appellant in RSA No.1168 of 1989 and RSA No.1491 of 1988. Gist of all the three appeals is noted as under :-

	RSA-1491-1988	RSA-2180-1988	RSA-1168-1989
Title in appeal	Randhir Singh Vs. Jagdish And Anr	Jai Singh And Another Vs. Randhir Singh	Randhir Singh Vs. Jagdish
Suit No.	No.236/1986	No.639/1983	No.326/1985
Nature of suit	Suit for pre-emption	Suit for permanent injunction	Suit for permanent injunction
Title in suit	Randhir Singh Vs. Jagdish And Anr	Randhir Singh Vs. Jai Singh	Randhir Singh Vs. Jagdish
Judgment by Court of first instance dated	28.10.1987 by Sub Judge, First Class, Panipat	05.05.1987 by Addl. Senior Sub Judge, Panipat	10.10.1988 by Addl. Senior Sub Judge, Panipat
Result before Court of first instance	Claim of plaintiff/appellant that he is entitled to preemption of sale executed by defendant Jai Singh in favour of defendant Jagdish was dismissed. (Suit decreed)	Suit of plaintiff was decreed and defendant was restrained from interfering in the peaceful possession of plaintiff Randhir Singh (Suit decreed)	Plaintiff was found entitled to protect his possession and defendant was restrained from interfering into possession of plaintiff except in due course of law. (Suit partly decreed)
Appeal No.	No.56/13 of 1987	No.57/13 of 1988	No.50/13 of 1988

Judgment by First Appellate Court dated	23.05.1988 Additional District Judge, Karna	25.08.1988 Additional District Judge, Karnal	24.10.1988 Additional District Judge, Karnal
(Appeal preferred by)	Plaintiff	Defendants	Defendant
Result before First Appellate Court	Claim of plaintiff/appellant that he is entitled to preemption of sale executed by defendant Jai Singh in favour of respondent Jagdish was dismissed. (Appeal dismissed)	Possession of plaintiff Randhir Singh over suit land was held to be of trespasser and defendant/appellant was restrained with liberty to seek dispossession of plaintiff in respect of 10 kanals and 9 marlas. (Partially allowed)	Appeal preferred by defendant was allowed and suit was dismissed. (Appeal allowed)
RSA filed by	Randhir Singh	Jai Singh & Anr.	Randhir Singh

2. RSA-2180-1988 has arisen from suit titled as ‘Randhir Singh Vs. Jai Singh’ decided vide judgment and decree dated 05.05.1987 passed by learned Addl. Senior Sub Judge, Panipat and judgment and decree dated 25.08.1988 passed by learned Additional District Judge, Karnal. Vide judgment and decree dated 05.05.1987 passed by Court of first instance suit of plaintiff was decreed and defendant was restrained from interfering in the peaceful possession of plaintiff Randhir Singh. Against said judgment and decree dated 05.05.1987 defendant Jai Singh (who is appellant in RSA-2180-1988) along with subsequent purchaser to whom he had sold the suit land namely Jagdish had preferred first appeal. Order of learned Court of first instance dated 05.05.1987 was modified by learned First Appellate Court vide judgment and decree dated 25.08.1988. Possession of plaintiff Randhir Singh over suit land was held to be that of trespasser and defendant/appellant was restrained with liberty to seek dispossession of plaintiff in respect of 10 kanals and 9 marlas of suit land in accordance with

law. Against judgment and decree dated 05.05.1987 and 25.08.1988 defendants Jai Singh and Jagdish have approached this Court vide RSA-2180-1988.

3. RSA-1491-1988 has been preferred by plaintiff/appellant Randhir Singh being aggrieved by judgment and decree dated 28.10.1987, passed by learned Sub Judge, First Class, Panipat and judgment and decree dated 23.05.1988, passed by learned Additional District Judge, Karnal vide which suit for preemption as well as first appeal preferred by plaintiff/appellant against dismissal of suit were dismissed. The claim of plaintiff/appellant that he is entitled to preemption of sale executed by defendant Jai Singh in favour of respondent Jagdish was dismissed. Hence present RSA No.1491 of 1988 was filed by plaintiff/appellant.

4. RSA-1168-1989 has also been preferred by plaintiff/appellant Randhir Singh who is aggrieved by judgment and decree dated 24.10.1988, passed in first appeal preferred by defendant Jagdish passed by Court of learned Additional District Judge, Karnal vide which first appeal preferred by defendant was allowed and suit decreed vide judgment and decree dated 10.10.1988 was dismissed and judgment and decree dated 10.10.1988 was set aside. Vide judgment dated 10.10.1988, Court of first instance had found plaintiff entitled to protect his possession from unauthorized act of defendant. Defendant was restrained from interfering in possession of plaintiff except in due course of law. Accordingly, plaintiff/appellant has preferred RSA No.1168 of 1989.

5. Case of Randhir Singh in Civil Suit No.639/1983 titled 'Randhir Singh Vs. Jai Singh' appellant in RSA-1491-1988 and RSA-1168-1989, respondent in RSA-2180-1988 titled 'Jai Singh Vs. Randhir Singh

(Since Deceased) through LRs' was that his father Risala was tenant under land owners namely Parsani Devi and Bohti Devi who were big land owners and after his father he has stepped into his shoes and is tenant in possession over the suit land. It was his claim that suit land was under his tenancy and defendant Jai Singh is illegally interfering in his possession on the basis of alleged allotment by State Government. Initially first suit was filed against defendant Jai Singh in whose favour allotment regarding 10 kanals 9 marlas was made. The second suit for permanent injunction was again preferred as by that time Jai Singh had sold suit land in favour of Jagdish, therefore, plaintiff had preferred two suits both for permanent injunction. The third suit was preferred by plaintiff seeking preemption on the basis that he being tenant has prior right to purchase the land in case of sale by defendant Jai Singh in favour of Jagdish.

6. On the other hand, case of defendant is that suit land was declared surplus under Punjab Security of Land Tenures Act and after passing of Haryana Ceiling of Land Holding Act, 1972, surplus land vested in State of Haryana vide mutation No.1823. It was asserted that subsequently State Government had allotted suit land to defendant vide mutation No.1865 and vide rapat No.477 actual possession was delivered on 30.08.1980. Defendant Jai Singh, accordingly claimed himself to be owner in possession of suit land and he in turn had sold the same to defendant No.2 Jagdish, who had subsequently joined appellant No.1 as appellant No.2 in appeal against the impugned judgment and decree dated 05.05.1987 passed by Court of first instance in Civil Suit No.639/1983 (RSA-2180-1988). It is contended that without appreciating above factual matrix, Court of first instance had wrongly restrained appellants from interfering in peaceful

possession of the respondent-plaintiff, except in due course of law.

7. In Civil Suit Nos.236/1986, No.639/1983 and No.326/1985 from the pleading of parties, following issues were framed :-

Civil Suit No.236/1986 (RSA-1491-1988)

- i. Whether the plaintiff has got the superior right of pre-emption? OPP.
- ii. Whether sale consideration of Rs.30,000/- was passed in good faith? OPD
- iii. If issue No.2 is not proved then what was the market value of suit land shown?OP Parties
- iv. Whether the suit land is not pre-emptible as alleged? OPD
- v. Whether the 1/5 pre-emption money was not deposited in time? OPD.
- vi. Whether the defendant No.1 incurred Rs.1000/- in improving the suit land after his purchase? OPD.
- vii. Relief.

Civil Suit No.639/1983 (RSA-2180-1988)

- i. Whether the plaintiff is in possession of the suit land under Parsani and Bohti Devi, as alleged? OPP.
 - ii. Whether the plaintiff has no locus standi to file this suit?OPD
 - iii. Whether the suit is bad for want of proper description of the suit land? OPD
 - iv. Whether the plaintiff has not come to the Court with clean hand? OPD
 - v. Whether the suit is subjudice, as alleged? OPD.
 - vi. Whether the suit is not maintainable in the present form? OPD
- Additional Issues
- 1(A). Whether there is no cause of action, if so, to what effect? OPD.
- 1(b) Whether the suit is not properly valued for the purposes of court fee and jurisdiction? OPD.

Civil Suit No.326/1985 (RSA-1168-1989)

- i. Whether the plaintiff is in possession of the suit land as tenant?

OPP.

- ii. Whether the suit land was declared surplus and Jai Singh became its owner in possession by way of allotment by the State Govt. and thereafter sold the same to defendant? OPD
- iii. Whether the civil Court is deferred by the provisions of Haryana Ceiling of Land Holding Act? OPD
- iv. Whether the suit is bad for non-joinder of necessary party? OPD
- v. Relief.

8. The real controversy between the parties in the present case is whether plaintiff Randhir Singh is tenant in possession over the suit land. The fate of his suits for pre-emption Civil Suit No.236 of 1986 (RSA-1491-1988) as well as other two suits for permanent injunction is dependent upon finding as to whether plaintiff has succeeded in proving himself to be a tenant.

9. Plaintiff Randhir Singh claims that his father Risala was tenant over the suit property for more than 30 years under land owners Parsani Devi and Bohti Devi and after his father it is he who is in possession of suit land as tenant. In order to prove his tenancy plaintiff Randhir Singh in Civil Suit No.639/1983 titled 'Randhir Singh Vs. Jai Singh' (RSA-2180-1988) appeared himself as PW1 and had examined Mangat Ram as PW2. He had placed reliance upon Ex.P1 copy of jamabandi for the year 1977-78, Ex.P2 copy of Khasra Girdawri for the year 1982-83, Ex.P3 copy of Khasra Girdawri for the year 1983-84, Ex.P4 copy of Khasra Girdawri, Ex.P5 copy of Khasra Girdawri, Ex.P6 copy of jamabandi for the year 1982-83, Ex.P7 copy of jamabandi Exs.P8, P9 and P10 copy of Khasra Girdawries and sale deed Mark A.

10. In Civil Suit No.326/1985 titled as 'Randhir Singh Vs. Jagdish

and Anr.’ (RSA-1168-1989) plaintiff Randhir Singh appeared as PW1 and placed on record Ex.P1 and P2 copy of judgment and decree dated 05.05.1987, Ex.P3 copy of Khasra Girdawri for the year 1984-85 to 29.03.1987, Ex.P5 copy of jamabandi for the year 1982-83, Ex.P6 copy of Khasra Girdawri since 23.10.1983 to 08.10.1985, Ex.P7 copy of order of this Court dated 10.06.1988, Ex.P8 copy of judgment of learned Additional District Judge dated 25.08.1988.

11. In Civil Suit No.639/1983 titled as ‘Randhir Singh Vs. Jai Singh’ (RSA-2180-1988) defendant Jai Singh had appeared as DW1 and examined Ved Singh, Patwari as DW2, Lakshman Dass as DW3 and Sant Lal, Retired Kanungoo as DW4. He had duly proved Form U.S. IV as Mark-B and Form U.S. II as Mark-C and certified copy of Rojnamcha dated 30.08.1980 as Ex.DW2/A, allotment letter as Ex.DW3/A and certified copy of actual report dated 30.08.1980 as Ex.DW4/A.

12. In Civil Suit No.326/1985 titled as ‘Randhir Singh Vs. Jagdish Singh’ (RSA-1168-1989) defendant had examined Ram Kumar, Clerk from Office of Tehsildar (Agrarian) as DW1 who produced certified copy of allotment in favour of Jai Singh as Ex.D1, examined DW3 Rajinder, Reader of Court to prove Ex.DW3/A certified copy of statement of Randhir Singh, examined DW5 Karan Singh, Halqa Patwari who proved Rojnamcha as Ex.DW5/A and certified copy of Rapat No.477 dated 30.08.1980 and examined DW8 Ishwar Chand, who proved statement of Randhir Singh as Ex.DW8/A. Khasra Girdawri entries from Kharif 1970 to Rabi 1978 was placed as Ex.D2, Khasra Girdawri from Kharif 83 to Rabi 1988 as Ex.D3, copy of judgment dated 28.10.1987 as Ex.D4, copy of mutation as Ex.D5, copy of decree sheet as Ex.D6 and certified copy of sale deed as Mark D.

13. On appreciation of evidence led by plaintiff and defendant in both the suits, as far as issue of ownership over suit property is concerned, same was clearly decided in favour of defendants and no dispute exists as regards to the same. Defendant Jai Singh by examining Clerk from Office of Tehsildar (Agrarian) had duly proved allotment of suit land i.e. 10 kanals 9 marlas in his favour.

14. Perusal of certificate of allotment Ex.DW3/A dated 26.05.1978 in Civil Suit No.639/1983 (RSA-2180-1988) shows that it was issued in favour of defendant Jai Singh as regards to suit property which was declared surplus under the provisions of Haryana Ceiling of Land Holding Act, 1972. Further Form U.S IV Mark-B duly proves payment of entire money by Jai Singh towards allotment in his favour. Allotment of suit land in favour of defendant Jai Singh vide allotment letter dated 26.05.1978 clearly establishes that suit property is owned by defendant Jai Singh at the time of filing of present suit. Furthermore, in none of the suits plaintiff Randhir Singh had claimed ownership over the suit land, rather in suit for preemption he on the basis of his tenancy rights had sought to preempt sale made by defendant Jai Singh in favour of defendant Jagdish. This is admission of ownership rights of Jai Singh in suit property. Since there is no evidence which goes to show that allotment of surplus land in favour of Jai Singh was in any manner defective, therefore, Courts below have rightly held Jai Singh to be owner of suit property. The fact that Jai Singh had sold this property to Jagdish is also not being disputed.

15. The real dispute in the present appeals is as regards to possession as well as status of plaintiff over the suit land. Whether the status of plaintiff is that of a tenant or of a trespasser/person in possession without

there being any right and whether plaintiff is entitled to injunction as was granted to him by Court of first instance in both his suits bearing Nos.936 of 1983 and 326 of 1985 for permanent injunction and by Appellate Court in Civil Suit No.639 of 1983 subject to dispossession in due course of law.

16. Plaintiff in his suits has claimed that his father Risala was tenant under Parsani Devi and Bohti Devi for the last 30 years, however, except for oral assertions no material has been produced by plaintiff to show that his father was tenant over the suit property for last 30 years. The only material available regarding possession of Risala/plaintiff is from Rabi 1978 corresponding with allotment in favour of defendant on 26.05.1978. The fact that allotment was made on 26.05.1978 in favour of defendant Jai Singh clearly shows that proceedings against big landlords declaring the land to be surplus and vesting of same in the Government had taken place much prior to allotment in favour of defendant Jai Singh.

17. Moreover, except for jamabandi for the year 1977-78 wherein possession of Risala was described as on batai tihai 1/3rd, no payable rent has been shown in the subsequent jamabandies where possession is mentioned without *lagan* and status of plaintiff was shown to be *Gair Marusi*.

18. It is undisputed principle of law that relationship of landlord and tenant cannot be established mere by a stray entry in revenue record. To establish relationship of landlord and tenant fixation of rent and agreement to pay rent is essential. Except for jamabandi entry for the year 1977-78 no other entry/material is available in favour of plaintiff to conclude that any rent was settled or paid. The entries in favour of father of plaintiff which had come only in jamabandi for the year 1977-78 and absence of Khasra

Girdawri prior to said period, in fact goes to show that land already stood vested in State prior to any entries in favour of plaintiff or his father Risala. Therefore, there was no occasion to claim tenancy under big land owners in absence of any proof of possession prior to jamabandi for the year 1977-78. A stray entry has been made in the revenue records to create hurdles in actual utilization of surplus land by the State. The entry in jamabandi 1977-78 is therefore, clearly a stray entry and liable to be ignored. Original landlord under whom plaintiff is claiming tenancy have not been examined to show that any rent was settled and was paid. Subsequent jamabandies showing no payment of rent and the fact that plaintiff was shown as *Gair Marusi* goes to prove that no tenancy existed in favour of father of plaintiff or plaintiff. Father of plaintiff/plaintiff has been introduced after land had vested in the State Government only to defeat utilization of surplus land. The entries in favour of father of plaintiff/plaintiff are, therefore, rightly been ignored. Plaintiff has failed not only to prove tenancy but also his possession on the basis of cogent evidence. Stray Khasra Girdawri entries and jamabandi entries are not true entries specially when same were made when neither Parsani Devi nor Bohti Devi were owners of suit property. For above noted reasons, plaintiff/Randhir Singh has been found to be trespassers in both the suits for permanent injunction and not a tenant. This finding of facts is as per evidence led by plaintiff, therefore, no interference is warranted. Plaintiff has not claimed any right under State who had become owner of suit property on declaration of suit land to be surplus in the hands of Parsani Devi and Bohti Devi. Accordingly, plaintiff is not entitled to any relief of permanent injunction.

19. Even if revenue entries are taken into consideration, even then

tenancy is not proved and at the most plaintiff can be taken to be in unauthorized possession and, therefore, a trespasser. The next question of law which arises in the present appeals is whether plaintiff/appellant who has been found to be trespasser by the Courts below and not a tenant, is entitled to safeguard his possession against true owner. Learned counsel for plaintiff/appellant argued that the protection granted to him in Civil Suit No.639 of 1983 be continued and defendants be directed not to dispossess him except in due course of law. On the other hand, learned counsel for defendants/respondents has argued that no injunction can be granted against a true owner. Reliance has been placed upon judgment of this Court titled as **Sukhwant Singh Vs. Divisional Forest Officer & Anr.**, 2010 (2) RCR (Civil) 394 and judgment of Hon'ble Supreme Court of India in **Maria Magarida Sequeria Fernandes & Ors. Vs. Erasmo Jack de Sequeria (Dead) through LRs & Ors.**, 2012 (5) SCC 370, wherein it was held that :-

"28. The expressions 'due process of law', 'due course of law' and 'recourse to law' have been interchangeably used in the decisions referred to above which say that the settled possession of even a person in unlawful possession cannot be disturbed 'forcibly' by the true owner taking law in his own hands. All these expressions, however, mean the same thing - ejection from settled possession can only be had by recourse to a court of law. Clearly, 'due process of law' or 'due course of law', here, simply mean that a person in settled possession cannot be ejected without a court of law having adjudicated upon his rights qua the true owner.

Now, this 'due process' or 'due course' condition is satisfied the moment the rights of the parties are adjudicated upon by a court of competent jurisdiction. It does not matter who brought the action to court. It could be the owner in an action for enforcement of his right to eject the person in unlawful possession. It could be the person who is sought to be ejected, in an action preventing the owner from ejecting him. Whether the action is for enforcement of a right (recovery of possession)

or protection of a right (injunction against dispossession), is not of much consequence. What is important is that in either event it is an action before the court and the court adjudicates upon it. If that is done then, the 'bare minimum' requirement of 'due process' or 'due course' of law would stand satisfied as recourse to law would have been taken. In this context, when a party approaches a court seeking a protective remedy such as an injunction and it fails in setting up a good case, can it then say that the other party must now institute an action in a court of law for enforcing his rights i.e., for taking back something from the first party who holds it unlawfully, and, till such time, the court hearing the injunction action must grant an injunction anyway? I would think not. In any event, the 'recourse to law' stipulation stands satisfied when a judicial determination is made with regard to the first party's protective action. Thus, in the present case, the plaintiff's failure to make out a case for an injunction does not mean that its consequent cessation of user of the said two rooms would have been brought about without recourse to law."

20. Hon'ble Supreme Court had held that once right of parties stands adjudicated qua true owner, the requirement of due process or due course stands satisfied. It was held that once adjudication of rights against true owner has been done, then the satisfaction to dispossess by due process is complied with and no injunction is to be granted against true owner.

21. In view of above findings, both the appeals i.e. RSA-1491-1988 and RSA-1168-1989 preferred by plaintiff Randhir Singh are liable to be dismissed. Judgment of learned Appellate Court dated 24.10.1988 in Civil Suit No.326/1985 (RSA-1168-1989) is accordingly upheld. Judgment and decree passed by learned Court of first instance as well as learned First Appellate Court are set aside in Civil Suit No.639/1983 (RSA-2180-1988) and suit preferred by plaintiff is dismissed and regular second appeal (RSA-2180-1988) preferred by appellants/defendants is allowed. Since plaintiff has failed to prove his tenancy over suit property, therefore, he has got no right

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decree passed by Court below in Civil Suit No.236/1986 (RSA-1491-1988) are upheld. RSA-1491-1988 and RSA-1168-1989 are dismissed being without any merit. RSA-2180-1988 is allowed.

22. Pending application(s), if any, is/are disposed of accordingly.

(PARMOD GOYAL)
JUDGE

27.01.2026
chiranjeev

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No