

2026:PHHC:060323



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

RSA-2590-2023 (O&M)
Date of Decision: 21.04.2026

Arjan Singh

...Appellant

Versus

Gurmail Singh and another

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: R.S. Dadwal, Advocate
for the applicant-appellant.

VIKRAM AGGARWAL, J (ORAL)

Defendant No.1 (Arjan Singh) is in appeal against the judgment and decree dated 27.10.2022 passed by the Court of Additional District Judge, Ludhiana, dismissing the appeal against the judgment and decree dated 24.01.2019 passed by the Court of Civil Judge (Junior Division), Jagraon, vide which the suit of the plaintiff was decreed.

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

3. The plaintiff (Gurmail Singh) filed a suit for possession of the area measuring 5 x 49-1/2' and 36-1/2' x 49-1/2' comprising in khasra No.67 (0-9) khewat No.268/245, Khatauni No.288 as per jamabandi for the year 2006-07 (fully described in the plaint), situated in village

Nangal Kalan, Hadbast No.350, Tehsil Railkot, District Ludhiana (hereinafter referred to as 'the suit property'). A decree for permanent injunction, restraining the defendants from changing the nature of the suit property, was also sought.

3.1 It was claimed that the plaintiff and his uncle Ajaib Singh, were co-owners of land measuring 9 marla comprising in the aforesaid Khasra No.67. The plaintiff had moved an application dated 29.07.2013 to the Revenue Authorities for demarcation of the said land, whereupon one Kuldeep Singh Kanungo had conducted the demarcation on 07.08.2013 in the presence of the respectables of the village. The said Kanungo in his report dated 07.08.2013 (Ex.P-4) found that the suit property was in illegal possession of the defendants, inasmuch as defendant No.2 had laid a passage thereupon, whereas defendant No.2 had raised a boundary wall on the suit property. It was further claimed that earlier defendant No.2-Gram Panchayat had tried to lay an underground water pipe in the property of the plaintiff through a proposed course, but in the civil suit for permanent injunction filed by the plaintiff, the Sarpanch of the Gram Panchayat had undertaken that no such pipeline would be laid and accordingly, the said civil suit was withdrawn.

3.2 It was asserted by the plaintiff that the defendants having been found in illegal possession of the suit property, were bound to hand over its possession to the plaintiff.

4. Defendant No.1 filed a written statement, *inter-alia*, asserting therein that the suit was not maintainable and that the plaintiff had no locus-standi and cause of action to file the suit. The authenticity of the demarcation report allegedly conducted on 07.08.2013 was denied and rather, it was asserted that the demarcation of the suit property was not possible as the same was located in a densely populated and constructed area. It was further pleaded that the house of defendant No.1 had been in existence for more than 100 years and neither the plaintiff nor his forefathers had ever raised any objection to that effect. The plea of adverse possession was, therefore, raised. Remaining averments of the plaint were denied.

4.1 Defendant No.2 failed to put in appearance despite service and accordingly, it was proceeded against *ex-parte* vide order dated 18.12.2013 passed by the trial Court.

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

1. Whether the plaintiff is entitled to decree of possession by way of declaration as prayed for?OPP
2. Whether plaintiff is entitled to decree of permanent injunction as prayed for?OPP
3. Whether suit of the plaintiff is not maintainable in its present form?OPD
4. Whether plaintiff has not come to court with clean hands and suppressed material facts from the court?OPD
5. Whether plaintiff has no locus standi to file the present suit?OPD

6. Whether suit of the plaintiff is within limitation?OPP
7. Whether no cause of action accrued to the plaintiff for filing the present suit?OPD
8. Whether the suit of the plaintiff is bad for non-joinder of necessary parties?OPD
9. Whether the suit of the plaintiff is bad for act and conduct of the plaintiff?OPD
10. Whether demarcation of suit property is not possible?OPD
11. Whether the suit is not properly valued for the purpose of court fee and proper court fee has not been paid on the plaint?OPD
12. Relief.

6. Parties led their respective evidence.

7. The trial Court decreed the suit vide judgment and decree dated 24.01.2019. The appeal filed by appellant-defendant No.1 was dismissed vide judgment and decree dated 27.10.2022 passed by the first Appellate Court, leading to the filing of the instant appeal.

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 relying upon the demarcation report dated 07.08.2013, whereas the fact remains that the suit property being located in a thickly populated and constructed area, no demarcation could have been conducted. Still further, it is argued that the demarcation report was not proved on record in accordance with law, inasmuch as the procedure stipulated under the mandatory provisions contained in Punjab and Haryana Land Record

Manual and instructions issued by the authorities in this regard.

9.1 It is further argued that learned trial Court erroneously decided issues No.4, 5, 9 and 11, observing therein that the same were not pressed, whereas, the same were duly pressed and arguments were also advanced. It is further argued that the said aspect, though was vehemently was pleaded and argued, was totally ignored by the learned first Appellate Court, while dismissing the appeal. It is also argued that it was the case of the plaintiff that he along with his uncle Ajaib Singh was co-owner of land measuring 9 marla comprising in Khasra No.67, but the said Ajaib Singh was not impleaded as a party. While referring to the testimony of DW-2 Balour Singh and DW-3 Rana Partap Singh, it is argued that it stood proved on the record that the house of defendant No.1 had been in existence for the last 100 years and even the boundary wall of the said house had been in existence since the time of the forefathers of the defendant No.1.

9.2 Learned counsel further submits that PW-2 Santosh Singh in his cross-examination admitted the factum of construction over the suit property for the last 20/25 years and further the construction of the house of defendant No.1 about 35/40 years back. It is, thus, argued that the said fact clearly established that defendant No.1 had been in adverse possession of the suit property for the last many years and he was entitled to protect the same.

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 been able to prove that the plaintiff was a co-owner of the suit property along with his uncle Ajaib Singh. It was further found that it was proved on record that the suit property comprised in Khasra No.67. It was further found that on the basis of the demarcation report (Ex.P-4), the plaintiff had been able to prove that the suit property had been illegally occupied by the defendants. The plea of defendant No.1 that the demarcation was not conducted as per the procedure prescribed under the relevant Rules, was negated by both Courts for the reason that the same was conducted by Kanungo (Kuldeep Singh), who was examined as PW-3 and nothing was brought on record to doubt the authenticity of the said report. It was also found that there was nothing on record to prove that the certified copy of the demarcation report was either different from the original one or the same was tampered with.

12. As regards the plea of adverse possession raised by defendant No.1, it was found that defendant No.1 had failed to show as to on what date he had come in possession of the suit property and as to what was the nature of his possession and whether the same had been in the knowledge of the plaintiff. It was further found that it was the pleaded case of the plaintiff that he came to know about the illegal

possession of the defendants over the suit property after getting the same demarcated from the Revenue Authorities.

13. In the considered opinion of this Court, both Courts recorded the concurrent findings of facts on the basis of evidence on record, particularly demarcation report (Ex.P-4), that the suit property had been illegally occupied by the defendants. The only defence of defendant No.1 was that he was in adverse possession of the suit property, but as noticed above, he had failed to prove the factum of adverse possession. Thus, the concurrent findings of facts recorded by both Courts cannot said to be suffering from any illegality, which may warrant interference by this Court in the instant Regular Second Appeal.

14. That being so, finding no merit in the instant appeal, the same is hereby dismissed.

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

(VIKRAM AGGARWAL)
JUDGE

21.04.2026

ds

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