

RSA-1736-1993 (O&M)

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

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RSA-1736-1993 (O&M)

Date of decision: 20.04.2026

Amar Singh (Deceased) Through his LR's and others

....Appellants

Vs.

Natha Singh (Deceased) Through his LR's and others

....Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

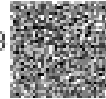
Present: Ms. Vijay Lath, Advocate
for the appellants.

Mr. Gulshan Sharma, Advocate
for respondents No.1 and 2.

HARSH BUNGER J.

1 Present regular second appeal, has been filed by appellant/plaintiff against the judgment and decree dated 29.07.1993 passed by learned Additional District Judge, Ropar, wherein he has reversed the findings returned by learned Trial Court vide judgment and decree dated 31.07.1990, in a suit for permanent injunction, filed by the appellants/plaintiffs.

2. Briefly, Sh. Amar Singh along with Smt. Jagjit Kaur and Smt. Jagir Kaur (the original plaintiffs), filed a suit for permanent injunction to restrain the respondents/defendants No.1 to 5 from interfering with the possession of the plaintiffs and respondent/defendant No.6 over plot No.62

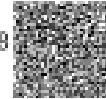


measuring 2016 sq. feet, situated within the abadi of village Mauli Baidwan, Tehsil Kharar, District Ropar.

2.1. The pleaded case of the plaintiffs was that Sh. Amar Singh is the son of Sh. Hazura Singh (who was claimed to be the original owner of the aforesaid property), whereas Jagjit Kaur and Jagir Kaur were the wives of the other two sons of Sh. Hazura Singh namely Himmat Singh and Jagir Singh, respectively. It was pleaded that the property in question was originally owned by the Mohammadans, however, on their shifting to West Pakistan in year 1947, a house/plot, left by them in village Mauli Baidwan (including the suit property), was auctioned by way of open auction held on 19.12.1960; wherein Sh. Hazura Singh had purchased the said site for Rs.120/-.

2.2 It was further stated that Sh. Hazura Singh had deposited the price of the aforesaid plot at the Kharar Treasury vide challan No.1272 dated 22.12.1960. Accordingly, it was claimed that Sh. Hazura Singh remained in possession of the said plot during his lifetime, and after his demise, plaintiffs and defendant No.6 came in possession of the suit property as owners. It was also averred by the plaintiffs that they constructed a manger in the suit property for tethering their cattle and there was also a *neem* tree at the site.

2.3 It was alleged by the appellants/plaintiffs that due to party faction in the village, defendants No.1 to 5 were trying to dispossess the plaintiffs and defendant No.6 from the suit property by claiming that the said property was a evacuee property and still belongs to Mohammadans.



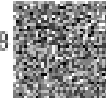
2.4 With the aforesaid pleas, the suit for permanent injunction was filed by the plaintiffs.

3. The defendants No.1 and 2 in the suit contested the claim of the plaintiffs, opposing the pleadings made in the suit. It was stated that plaintiffs were neither the owner nor in possession of the suit property, therefore, the suit did not lie, nor they have any locus standi.

3.1 It was further pleaded that the suit property belongs to the Wakf Board and that the defendant No.1 had purchased it from one Mohammad, namely, Mehli, vide sale deed dated 20.11.1967 and since then, he is in possession of some part of suit property measuring 10 yards × 10 yards, whereas the remaining property was in possession of Wakf Board and is being managed by respondent No.2 as property of Masjid. It was also pleaded that the jurisdiction of the Civil Court is barred as the suit property is evacuee property and only the Rehabilitation Department was competent to auction the same.

3.2 It was also the categoric case of the defendants No.1 and 2 that, original house of the plaintiffs is far away from the suit property and the property in question was useless for them. The defendants No.1 and 2 asserted their possession by claiming that in fact, it is the plaintiffs, who are trying to dispossess the defendants, under the garb of injunction.

4. The plaintiffs filed a replication to the written statement filed by the defendants and from the pleadings of the parties, the following issues were framed.



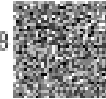
- “1. Whether the plaintiffs are entitled to the grant of P.I. as prayed for?OPD.
2. Whether the plaintiffs have no locus standi to file the present suit?OPD
3. Whether the suit is bad for non-joinder of necessary parties?OPD.
4. Whether the Civil Court has no jurisdiction in the matter in question?OPD.
5. Relief.”

5. The learned Trial Court upon consideration of the pleaded case of the parties, as well as the material/evidence available on record, returned a finding regarding issue No.1 that Sh. Hazura Singh (predecessor-in-interest of the plaintiffs) was the owner of the suit property and since the possession of an open site goes with the ownership, therefore, the suit was decreed by restraining the defendants from interfering in the possession of plot No.62 vide judgment dated 31.07.1990.

6. Feeling aggrieved against the above-referred judgment and decree dated 31.07.1990, defendants in the suit filed an appeal before the learned Additional District Judge, Ropar, which came to be allowed vide judgment and decree dated 29.07.1993, whereby the aforesaid judgment and decree dated 31.07.1990 passed by learned Trial Court was set aside and the suit filed by the plaintiffs was dismissed.

7. In the aforementioned circumstances, present regular second appeal has been filed by the appellants/plaintiffs against the judgment of the reversal.

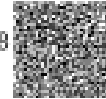
8. I have heard the learned counsel for the parties and perused the paperbook with their able assistance.



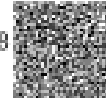
9. Apparently, appellants/plaintiffs had the filed the suit for permanent injunction against the defendants by pleading that the suit property was purchased by their predecessor-in-interest namely Sh. Hazura Singh, in an open auction held on 19.12.1960 and in order to prove the said fact; reliance was placed on a Treasury challan dated 22.12.1960, whereby, some amount was deposited by Sh. Hazura Singh. In evidence, the plaintiffs had produced a copy of ledger account for the sale of surplus acquired evacuee houses and site as Ex. P-1 along with a report from the learned Tehsildar (Sales) as Ex. P-2 as well as site plan Ex. P-3.

9.1 It is only on the strength of these three documents that the learned Trial Court held Sh. Hazura Singh to be the owner of the suit property. Since, Sh. Hazura Singh was held to be the owner of the suit property; accordingly, the suit for permanent injunction filed by the plaintiffs was decreed. However, the learned First Appellate Court has reversed the finding of the lower trial Court by observing that the documents relied upon by the plaintiffs do not prove the title of the plaintiffs regarding the plot in question. It was held that a mere entry in the ledger account register did not convey title to Sh. Hazura Singh, as no conveyance deed has been produced to prove their ownership.

9.2 Even the finding on possession of the plaintiffs was reversed by holding that the oral statements made by the plaintiffs witnesses do not support the claim of the plaintiffs for their possession. The relevant extract of the findings returned by the learned First Appellate Court reads as under:-



“...The first and foremost solemn question which arises for determination is as to whether the plaintiffs/respondents are owners of the plot in dispute. The trial court after going through the documents came to the conclusion that ownership of the plaintiffs/respondents was proved regarding the plot in dispute. The conclusion arrived at is wrong. Ex. P1 is copy of appendix second/ ledger account for the sale of surplus acquired evacuee houses and sites of village Mauli Baidwan. Entry at serial No.131 in it shows plot No.62 zeem area 2016 Sq.feet, name of highest bidder as Hazura Singh, for Rs.120/-, date of acceptance of highest bid by the Managing Officer is 19.12.60; Treasury challan No. 1272 dated 22.12.60, Ex. P2 is report of the Tehsildar Sales made on the back of application dated 13.1.87, purported to be given by Hazura Singh. He made report as per details given in the ledger account copy of which is Pl.P3 is copy of the plan showing the location of the plot in dispute. These were the documents produced by the plaintiffs/respondents in support of their title to the plot in dispute. These documents do not prove title of the plaintiffs/respondents regarding the plot in dispute. The mere entry in the ledger account register does not convey any title to Hazura Singh, the highest bidder and predecessor-in- interest of the plaintiffs/respondents. He may have given the highest bid and deposited Rs.120/-, in the treasury. Who knows whether his bid which was accepted by the Managing Officer on 19.12.60 was later on confirmed. No conveyance deed has been produced to prove their ownership. The disputed plot is admittedly an evacuee property. The conveyance deed alone executed by a competent authority in favour of Hazura Singh could pass in title to him regarding the plot in dispute. Entry in the ledger account is only a preliminary to the sale. No contract of sale is



complete unless it is evidenced by sale deed/conveyance deed. Ex. P2 report of the Sales Tehsildar on which the trial court laid emphasis is only a repetition of the entry contained in the ledger account. There is no other document of title with the respondents/ plaintiffs. So the title of the plaintiffs/respondents in respect of the plot in dispute is not proved.

8. Regarding possession, the evidence is oral. It is also contradictory. Ajmer Singh sales Kanungo was examined by the plaintiffs/respondents as PW1. He deposed in cross-examination that he does not know about the transfer of possession of the plot in dispute from the custodian to the auction purchaser. So the witness of the plaintiffs/respondents does not support their claim for possession. PW2 Piare Lal and PW3 Amar Singh (Plaintiff) himself deposed that the plaintiffs/respondents are in possession. Their oral testimonies do not receive credence. The trial Court was in error in holding the possession of the plaintiffs/respondents on the plot in dispute.”

10. Before this Court, learned Counsel for the appellants/plaintiffs has failed to dislodge the above-extracted findings. It has been fairly conceded by learned counsel for the appellants that apart from the documents (which are already placed on record), there is no other document of title as regards the suit property in favour of the predecessor-in-interest of the plaintiffs namely Sh. Hazura Singh.

11. I have also gone through the findings/observations made by the learned First Appellate Court and upon considering the same, I am of the considered view that the findings returned by the learned First Appellate Court are based upon appreciation of facts/pleading as well as the evidence

on record. Evidently, the documents relied upon by the appellants to prove their claim of ownership of site in question, do no prove their title over suit property. There is no conveyance deed in favour of Sh. Hazura Singh, which could have passed title to him in respect of suit property. Therefore, I see no illegality or perversity in the findings returned by the learned First Appellate Court. Furthermore, no question of law much less a substantial question of law, is involved herein, so as to exercise appellate jurisdiction under Section 100 of the Civil Procedure Code, 1908.

12. In view of the above, present appeal is **dismissed** being bereft of any merit. Resultantly, the impugned judgment and decree dated 29.07.1993 passed by learned Additional District Judge, Ropar, is hereby maintained.

13. All the pending application(s), if any, shall also stand closed.

20.04.2026

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(HARSH BUNGER)
JUDGE

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