



RSA-573-1993

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA-573-1993

Date of Decision: 15.01.2026

Raghubir and another

...Appellants

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. Rajiv Sharma (Hisarwale), Advocate
Mr. Vinayak Atri, Advocate and
Ms. Indu Bala Sharma, Advocate for the appellants
Mr. Ashok Kumar Khubbar,
Additional Advocate General, Haryana
Mr. Som Nath Saini, Advocate for respondent No.3
Respondent No.4 *ex-parte* vide order dated 14.07.1993

JAGMOHAN BANSAL, J. (Oral)

1. The appellants through instant appeal are seeking setting aside of order dated 30.09.1992 passed by learned Additional District Judge, Bhiwani whereby judgment and decree dated 19.02.1990 passed by learned Sub-Judge, First Class, Bhiwani has been upheld.

2. On 08.07.2025, this Court passed the following order:

"It is submitted by learned counsel for the appellant/plaintiff that the appellant had filed a suit for declaration that the plaintiffs are owners in possession of the suit property, which is an evacuee property. The said property was mortgaged by the appellant to one Didar Singh, who migrated to Pakistan in the year 1945. Learned counsel submits that therefore the said mortgage being usufructuary



mortgage, it was open to the appellant to redeem the same at any point of time, and there is no limitation for the same in terms of judgment of the Hon'ble Supreme Court in Singh Ram (D) through LRs vs. Sheo Ram and others Law Finder Doc ID #603373.

Learned counsel for respondent No.3 however, controverts the submissions made by learned counsel for the appellant and submits that as the suit property is evacuee property, and as the appellant/plaintiff had sought a declaration that the said suit property is not an evacuee property, the jurisdiction of the Civil Court is barred under Section 46 of the Administration of Evacuee Property Act, 1950 and as per Section 36 of The Displaced Persons (Compensation and Rehabilitation) Act, 1954.

Learned counsel for the appellant seeks some time to assist this Court on the said question of law raised by learned counsel for respondent No.3.

Adjourned to 14.11.2025."

3. Learned counsel for the appellants submits that Civil Court as well as Appellate Court categorically held that custodian had no power to declare that after the expiry of period of limitation for redemption of suit land, the plaintiffs or their predecessors-in-interest ceased to be owner of the suit land and custodian automatically became its owner. In view of the said findings, Civil Suit was maintainable. The Courts below have dismissed appellants' suit on the ground that they did not get the land in question redeemed. There is no limitation period to get the land redeemed, thus, findings of Courts below are incorrect.

4. Learned counsel for respondent No.3 submits that land in question was treated as evacuee land and thereafter allotted to respondent No.3. As per Section 46 of Administration of Evacuee Property Act, 1950

(for short '**1950 Act**'), Civil Suit was not maintainable.



5. Heard the arguments and perused the record.
6. Section 46 of the 1950 Act specifically debars jurisdiction of Civil Courts in certain matters which includes question whether any property is or is not evacuee property. Section 46 of 1950 Act reads as:

“46. Jurisdiction of civil courts barred in certain matters.

- Save as other wise expressly provided in this Act, no civil or revenue court shall have jurisdiction---

- (a) to entertain or adjudicate upon any question whether any property or any right to or interest in any property is or is not evacuee property, or*
- (b) to entertain or adjudicate upon any question whether any property is or is not an intending evacuee; or*
- (c) to question the legality of any action taken by the Custodian General or the Custodian under this Act; or*
- (d) in respect of any matter which the Custodian-General or the Custodian is empowered by or under this Act to determine.”*

7. On the perusal of above-quoted Section, it is evident that Civil Court has no jurisdiction to decide as to whether a particular property is evacuee property or not. Respondents declared and treated property in question as evacuee property and further allotted to respondent No.3. The appellants claimed said property as redeemed property. They were always of the opinion that it is not evacuee property. The question of nature of property was involved which could not be adjudicated by Civil Court.

8. In the wake of above discussion and findings, this Court is of the considered opinion that there is substance in the argument of respondent No.3 that jurisdiction of Civil Court in terms of Section 46 of Administration of Evacuee Property Act, 1950 was barred, thus, the appeal



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deserves to be dismissed on the ground of jurisdiction and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

15.01.2026

Mohit Kumar

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