



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

RSA-365-1991 (O&M)

Date of Decision: February 11, 2026

Bhanwar Singh through his LRs and others

...Appellants

VERSUS

Hukmi @ Hukam Singh through his LRs and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Adarsh Jain, Senior Advocate with
Ms.Amandeep Kaur and Ms.Kamaldeep Kaur, Advocates
for the appellants.

Mr.A.P.Bhandari and Ms.Bhargavi, Advocates
for the respondents.

ARCHANA PURI, J.

This is a regular second appeal filed by the appellants (who were defendants No.1 to 4 before trial Court) to assail the judgment dated 08.02.1991 passed by learned First Appellate Court.

The essential facts, to be noticed, are as follows:-

That, initially respondent No.1-Hukmi @ Hukam Singh s/o Sohan Lal (plaintiff before the trial Court) had filed a suit for issuance of permanent injunction, thereby, retraining the appellants (defendants No.1 to 4 before the trial Court) from interfering in their cultivating possession over the land measuring 62 Kanal 19 Marla, as detailed in paragraph No.1 of the plaint. Also, it is averred in the plaint that earlier Heta and Sohan Lal, sons of Har

**RSA-365-1991****-2-**

Pal along with Ram Kishore, who was proforma-defendant No.5 (respondent No.2 herein{since deceased}) were in cultivating possession of the suit land as tenants. Heta and Sohan Lal were predecessors-in-interest of the plaintiff-respondent No.1. Defendants No.1 to 4 intended to interfere in their possession over the suit land.

The suit was contested by the present appellants, who inter alia pleaded that they had purchased specific killa numbers to the extent of 13 Kanal 2 Marla, comprised in Rect. No.267 Killa No.2, min-south (3-12) 12 min North (3-13), 9 min East (5-17) from some of the co-sharers of the Shamlat Patti Desi vide sale deed executed and registered on 28.08.1973 and actual physical possession was delivered to them and they are in exclusive possession of the same, as owners thereof.

On the basis of the pleadings, following issues were framed:-

- “1) *Whether the plaintiff along with Ram Kishore is in cultivating possession as tenant of the suit land, as alleged?OPP.*
- 2) *Whether the suit is not maintainable?OPD*
- 3) *Whether the plaintiff has got no locus-standi to file the present suit?OPD*
- 4) *Whether the suit is bad for mis-joinder and non-joinder of necessary parties?OPD*
- 5) *Whether the suit is not valued properly for purposes of court fee and jurisdiction?OPD*
- 6) *Relief.”*

The evidence was adduced by the respective parties. After hearing counsel for the parties and on appraisal of the evidence, brought on record, learned trial Court held that the plaintiff-respondent No.1 is proved

**RSA-365-1991****-3-**

to be in possession of the suit land, except 13 Kanal 2 Marla of the same, which has been purchased by the contesting defendants No.1 to 4-appellants, who are in possession of the same, to that extent. Consequently, learned trial Court decreed the suit partly vide judgment and decree dated 30.05.1987 and passed the decree for permanent injunction, thereby, restraining appellants-defendants No.1 to 4 from interfering into the possession of the plaintiff-respondent No.1 and proforma defendant No.5 (respondent No.2) over the suit land, as detailed in paragraph No.1 of the plaint, excluding the land, as prescribed in paragraph No.3 of the plaint, measuring 13 Kanal 2 Marla.

Being aggrieved, plaintiff-respondent No.1 had filed the appeal, which was accepted vide judgment dated 08.02.1991 and after modifying the judgment and decree 30.05.1987, learned Appellate Court had granted a decree for permanent injunction, in favour of the plaintiff-respondent No.1 and proforma defendant No.5-respondent No.2 Ram Kishore, thereby, restraining the appellants-defendants No.1 to 4, from interfering into the possession of the plaintiff and proforma defendant, over whole of the land measuring 62 Kanal 19 Marla. However, it was also observed by the Appellate Court that the contesting defendants shall be at liberty to take possession of the same, in due course of law.

Being aggrieved, the appellants-defendants No.1 to 4 have filed the appeal in hand.

At the very outset, learned counsel for the appellants would contend that vide sale deed dated 28.08.1973, copy whereof is Ex.D1, the appellants had purchased part of the suit land to the extent of 13 Kanal 2 Marla and in the said sale deed, there is recital, with regard to delivery of

**RSA-365-1991****-4-**

possession and this assertion also stands substantiated by the order of Assistant Collector Grade-II, wherein, the appellants were held to be in possession of this extent of land. It is also asserted that Tehsildar himself had inspected the suit land and recorded his observations and consequently, he had ordered correction of the khasra girdawari. However, it is submitted that this aspect, as such, has not been appraised in proper perspective by learned Appellate Court.

In fact, learned counsel for the appellants submits that even though, the trial Court had correctly observed about Heta and Sohan Lal having died and their names, continued to be reflected in the revenue record, but this fact establishes that the revenue entries were not depicting the correct position. In view of the sale deed, coming on record, it is submitted that it stands amply established that the appellants reclaimed the land in question and they have been in established possession. Therefore, it is submitted that the evidence adduced, has been misread, misinterpreted and misconstrued by the Appellate Court.

On the other hand, learned counsel for the respondents submits that from the revenue record, brought in evidence, Heta and Sohan Lal sons of Har Pal as well as Ram Kishore s/o Ami Chand are reflected to be in joint cultivating possession of whole of the land measuring 62 Kanal 19 Marla, as tenants thereof, on payment of rent @ 60 paisa per Kanal. Likewise, also it is evident from the khasra girdawari about the said persons to be in cultivating possession as tenants thereof. Such being the factual position in the revenue record, spreading over the years, the recital of delivery of possession, as such, does not stand substantiated. However, it is submitted that even, no satisfactory evidence, as such, has come on record about the

**RSA-365-1991****-5-**

vendors of the appellants to have ever come into possession of the suit land, at any time or of the relinquishing of the possession of the suit land in question by the tenants.

In the light of the same, it is submitted that nothing, as such, is coming on record, to rebut the presumption of correction attached to the revenue record.

At this juncture, it is pertinent to mention that it is settled position of law that the High Court cannot interfere with the findings of fact, arrived at by the first Appellate Court, which is the final Court of facts, except in such cases, where such findings are erroneous, being contrary to the mandatory provisions of law, or its settled position, on the basis of the pronouncements made by the Apex Court or based upon inadmissible evidence or without evidence. In fact, the High Court cannot substitute its opinion for the opinion of the First Appellate Court, unless it is found that the conclusions drawn by the lower Appellate Court, are erroneous, being contrary to the mandatory provisions of law applicable or its settled position, on the basis of pronouncements of the Apex Court, or was based upon inadmissible evidence or arrived at without evidence. The High Court in the second appeal can interfere with the findings of the trial Court, on the ground of failure on the part of the trial as well as the first Appellate Court, when the evidence brought on record is misread and misinterpreted or there is failure to follow the decisions of the Court and also acted on assumption not supported by an evidence.

In the light of the aforesaid, it is pertinent to mention that perusal of the jamabandis, proved in evidence, for the years 1962-63 upto 1982-83, which are Ex.RX, AY, AZ and P1, the names of Heta and Sohan

**RSA-365-1991****-6-**

Lal s/o Har Pal who are predecessors-in-interest of respondent No.1-plaintiff as well as Ram Kishore s/o Ami Chand-proforma defendant No.5 (respondent No.2), are recorded to be in joint cultivating possession of whole of the land i.e. land measuring 62 Kanal 19 Marla, as tenants thereof. This is also so reflected in khasra girdawari proved in evidence.

That being so, the presumption of truth is raised to the said revenue record. Very correctly, it has been observed that no evidence, as such, has come on record, to rebut this presumption. Hukmi @ Hukam Chand himself stepped into witness box as PW-1 and he had also stated about Heta and Sohan Lal to have died and that he succeeded them. However, no evidence, to rebut the aforesaid assertion of PW-1, as such, has come on record. In fact, appropriate reference has been made to testimony of Dharam Singh, one of the appellants, who stepped into witness box as DW-1 and in cross-examination, he had admitted that Hukmi-plaintiff is son of said Sohan Lal and Heta, who was brother of Sohan Lal had died issueless. In the light of the same, obviously, respondent No.1-plaintiff had succeeded to their tenancy rights, qua the land in question.

Viewed from other aspect, it has been very appropriately appraised by learned Appellate Court about Ram Kishore-proforma defendant, who was one of the joint tenants, to be tenant of the whole land, together with other tenants and they did not cultivate separate parcels of land individually. In such circumstances, on death of two of the joint tenants, their heirs would also join with the surviving tenant and their cultivation, will continue to be joint.

Such being the position, respondent No.1-plaintiff Hukmi @ Hukam Chand has been very correctly held to be heir of Sohan Lal and Heta and that

**RSA-365-1991****-7-**

he continues to be joint tenant, of whole of the land along with Ram Kishore-respondent No.2.

Even, DW-1 Dharam Singh, while facing cross-examination had admitted about the purchase of the land to the extent of 13 Kanal 2 Marla, by virtue of sale deed dated 28.08.1973 Ex.D1 and therein, it was recited that the vendors had delivered the possession of this portion of the land to them as vendees. However, while facing cross-examination, Dharam Singh admitted that at the time of the sale deed, the copy of the jamabandi was obtained and the same reflected, for long period of 28 years, about the possession of Heta and Sohan Lal. If such being the position reflected in the revenue record, then question arises, as to how the vendors, came into possession and in what manner, they had handed over the possession to the vendees. Relating to the same, no evidence, as such, was brought on record.

Furthermore, nothing as such is also coming on record, as to whether the tenants, namely, Sohan Lal and Heta and for that matter, even Ram Kishore had ever relinquished their possession over the said portion of the land, so purchased by the contesting defendants or they had been dispossessed with the intervention of the order passed by any competent authority. Such being the position, the tenants have been very correctly presumed to be in continuous possession of the land.

It is highly improbable that after the purchase of the property in the year 1973, when knowing well about the entries in the jamabandis reflecting the cultivating possession of the tenants, the purchasers of the land measuring 13 Kanal 2 Marla, would remain silent and would not seek the correction of the jamabandis, at the appropriate time. Thus, the presumption, as such, does not stand satisfactorily rebutted.

**RSA-365-1991****-8-**

No doubt, during the pendency of the suit, an application was filed for the correction of the khasra girdawari before the Collector and the order dated 13.03.1987 Ex.D2 was passed in favour of the appellants-contesting defendants, but however, it is always to be taken into consideration that the said order has been passed, during the pendency of the civil suit. May it be so, that during the pendency of the suit, the correction of the jamabandi was ordered, but however, the same, as such, does not have any impact upon the right of adjudication of the matter by the Civil Court. When the Civil Court is seized of the matter relating to the appraisal of the revenue record, the same also has to be considered independently by the Civil Court, on the basis of the evidence, produced before it.

As observed aforesaid, but for the order of correction of the jamabandi, as per the land inspected by the Collector, there is no other evidence, brought on record, to substantiate about the manner in which, the vendors of the appellants, ever having come into possession of the land purchased by the appellants and such being so, the delivery of possession to the vendees, as such, does not stand established.

Being so, the Appellate Court, as such, has correctly observed about the trial Court having erred in holding about the appellants to be in possession of the land purchased by them. Even if, for the sake of arguments, at the best, on the basis of the sale deed Ex.D1, the appellants-defendants could be taken to have purchased the land, then also, the possession having been handed over to them, does not stand established.

Even if, much reliance is placed upon Ex.D3 and Ex.D4, on the basis whereof, it is asserted about the plaintiff-respondent No.1 to have purchased the land and they having become joint owners, may it be so, then



RSA-365-1991

-9-

also, as observed by the Appellate Court, the co-sharer in exclusive possession of the suit property, has a right to protect his possession and in the light of the same, at the maximum, considering the parties to be co-owners also, the exclusive possession of the plaintiff, as such, is evident and therefore, he is entitled to seek injunction to protect his possession.

All the aforesaid aspects have been considerably appraised by the Appellate Court, in the light of the evidence, brought on record, more particularly, the revenue record and had also appraised the same, while considering the applicable law and therefore, it cannot be held that it is on assumption, not supported by evidence, that the observations have been made. In fact, there is no misreading or misinterpretation of the evidence, brought on record.

Hence, the appeal sans merit and the same is hereby dismissed.

February 11, 2026
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No