



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

101+202

Date of decision : 07.03.2026

1. RSA-855-2024 (O&M)
Om Parkash @ Om Parkash Ninania and others Appellants

versus

Sant Kumar and others Respondents

2. RSA-929-2024 (O&M)
Om Parkash @ Om Parkash Ninania and others Appellants

versus

Sant Kumar and others Respondents

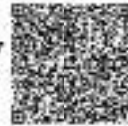
CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Vivek Suri, Advocate and
Ms. Smriti Bansal, Advocate
for the appellants.

PANKAJ JAIN, J. (Oral)

1. By way of this order, I intend to dispose off the afore-captioned two appeals which have arisen out of two different suits filed in the nature of cross suits by the rival parties. For the sake of convenience, facts are being culled out from RSA-929-2024, as the counsel for the appellants admits that the fate of RSA-929-2024 shall hold good for the other appeal as well.

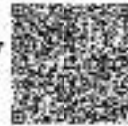
2. The present appeal has arisen out of Civil Suit No.4590 of 2013 CNR No.HRRH02-002372-2012. Plaintiffs filed suit seeking decree of declaration with the consequential relief of permanent injunction. Defendants filed cross suit bearing Civil Suit No.130 of



2014. Though the suits were never consolidated, but it is an admitted fact that both related to the same property.

3. In the present suit seeking decree of declaration with the consequential relief of permanent injunction, the plaintiffs sued in representative capacity claiming that their community by virtue of registered lease deed bearing document No. 805 dated 01.07.1924 came in possession of the common property which is part of Khasra No. 8006 (3 biswa). They claimed tenancy rights under Dilbari widow of Amir Singh under lease deed dated 07.08.1934, which was executed in their favour qua 14 biswa of land comprised in Khasra No. 8024 for 99 years. As per plaintiffs, they have a right to use Well situated in Khasra No. 8006. The Well has now been filled with sand and the area is being used by their community for social functions. Defendant No.1 and 2 are successors-in-interest of Kashmiri Lal, who vide sale deed dated 14.08.1982 purchased property bearing Khasra No.8743/8005/2/1. Fraudulently, he got the property mentioned by dimensions which includes vacant plot forming part of Khasra No.8006.

4. The plaintiffs and their predecessors earlier also filed a Civil Suit bearing No.248 of 1978 against Kashmir Lal father and predecessor-in-interest of defendants qua the same land. The said suit was decreed in favour of the plaintiffs vide judgment and decree dated 26.02.1981. Kashmiri Lal preferred an appeal. The same was dismissed vide judgment and decree dated 26.08.1982. Regular Second Appeal preferred by Kashmiri Lal was dismissed as withdrawn on 02.12.1982. Defendant No.1 and 2 earlier filed a Civil suit bearing No.548 of 2007. It was dismissed in default on 05.05.2012. Plaintiffs claimed that

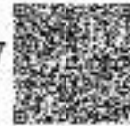


defendant No.1 and 2 tried to interfere in their peaceful possession in the month of September 2012. Defendants have filed Civil Suit titled as '*Sant Kumar and others vs. Om Parkash and Ors.* Under the garb of the same, they want to grab the property belonging to the community of the plaintiffs. Plaintiffs by way of present suit, sought declaration that the sale deed bearing No.3199 dated 14.09.1982 executed by Dilbari in favour of Kashmiri Lal, is a result of fraud. The property bearing Khasra No.8006 has been wrongly incorporated in the same.

5. Suit was contested by the defendants. As per defendants, their father Kashmiri Lal purchased property admeasuring 328 sq. yards vide sale deed bearing No.3199 dated 14.09.1982 from Vidyawanti wife of Har Bachan Singh. Kashmiri Lal filed suit for permanent injunction, i.e. Civil Suit bearing No.717-1 of 1982 against predecessors-in-interest of the plaintiffs. Suit was decreed vide judgment and decree dated 14.10.1986. Defendants in the said suit were restrained from interfering in the possession of Kashmiri Lal.

6. In the appeal preferred by defendants, i.e. Civil Appeal No.35/13 of 1986, decree passed by the Trial Court was modified to the extent that Kashmiri Lal was directed to provide passage measuring 23' x 10' to the defendants vide judgment and decree dated 24.07.1987.

7. Defendants further preferred regular second appeal. The same was dismissed vide judgment dated 25.07.2011. The judgment passed by the First Appellate Court has attained finality. After death of Kashmiri Lal, defendant No.1 and 2 inherited the property. Requisite passage was left by the defendants. Area in the hands of defendants now left is 302.5 sq. yards. Plaintiffs despite being bound by the earlier



judgment and decree, tried to restrain defendant No.1 and 2 from raising construction. The defendants were thus constrained to file Civil Suit No.130 of 2014 seeking decree of perpetual injunction restraining present plaintiffs from interfering in their possession over the suit property admeasuring 302.5 sq. yards.

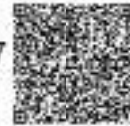
8. Suit filed by the plaintiffs was put to trial by the Court of First Instance framing following issues:-

- “i. Whether the plaintiffs are entitled to the relief of declaration, as prayed for? OPP*
- ii. Whether the plaintiffs are entitled for the relief of permanent injunction, as prayed for? OPP*
- iii. Whether the plaintiffs has no cause of action and locus to file the present suit? OPD*
- iv. Whether the suit of the plaintiffs is not maintainable in its present form? OPD*
- v. Whether the court has no jurisdiction to try the present suit? OPD*
- vi. Whether the plaintiffs have concealed material facts from the court? OPD*
- vii. What relief?”*

9. Referring to the earlier *lis* between the parties, the Court of First Instance found that the parties being bound by the earlier judgment and decree Ex.D-3 and Ex.D-4 which have now attained finality, the suit filed by the plaintiffs seeking decree of declaration with consequential relief of permanent injunction deserves dismissal.

10. Unsuccessful plaintiffs preferred appeal. The same has been dismissed by the Lower Appellate Court upholding the findings recorded by the Court of the First Instance.

11. Counsel for the appellants Mr. Suri is not in a position to dispute that the ownership and possession of Kashmiri Lal was in issue in the earlier judgment dated 14.10.1986. Father of the defendants



Kashmiri Lal was found to be in possession of the suit property as owner. Sale deed in his favour was upheld in the earlier round of litigation. Confronted with the situation, he was asked as to how the present suit again seeking declaration qua the sale deed in favour of Kashmiri Lal was maintainable. This Court invited his attention to the following findings recorded by the High Court in its judgment:-

“xx xx xx

6. What is not disputed here is that the plaintiff is proved to be owner and in possession of the plot in dispute, which was purchased by him, vide sale deed (Ex.P2). This plot includes the land, which was, at one time, used as ramp for drawing water from the well. Although the defendants did not have any legal/vested right to pass through the land of the plaintiff as held by the trial court, but still, as a grace and humanitarian ground, the first appellate Court directed him (plaintiff) to provide passage of 23x10' to the defendants. Still, the defendants have filed the present appeal, without any legal basis".

12. Mr. Suri submits that defendants themselves are not honouring their commitment made in the earlier *lis* with respect to providing passage measuring 23' x 10' to the defendants.

13. The contention raised by Mr. Suri cannot be accepted. Defendants in their written statement themselves have pleaded that in compliance of the earlier decree passed by the Lower Appellate Court dated 24.07.1987, they left the requisite land for passage and use by community of the plaintiffs. After leaving the passage, they have been left with area measuring 302.5 sq. yards, out of total area of 328 sq. yards purchased by their father.

14. Reference can be made to para 4 of the preliminary submissions made in the written statement by defendant No.1 and 2



before the Court of First Instance. The said plea raised by defendant No.1 and 2 in their written statement has gone unrebutted. From the plaint, it is evident that the plaintiffs by way of present suit have again resorted to attack the sale deed in favour of Kashmiri Lal executed by Vidyawanti daughter of Dilbari. It being not in dispute that the sale deed has already been upheld in the earlier round of litigation, this Court finds that no fault can be found with the findings recorded by the Trial Court dismissing the suit filed by the plaintiffs.

15. In view thereof, finding no merits in the present appeal RSA-929-2024, the same is ordered to be dismissed.

16. RSA-855-2024 is also ordered to be dismissed.

17. Ordered accordingly.

18. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

19. A photocopy of this order be placed on the file of other connected case.

(PANKAJ JAIN)
JUDGE

07.03.2026

Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No