



RSA-830-1995

-1-

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

105

RSA-830-1995

Date of decision :14.01.2026

RANJIT SINGH AND OTHERS

... APPELLANTS

VERSUS

KUNDAN SINGH

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Ms. Gurnam Kaur Thakur, Advocate
for the appellants.

Mr. Avnish Mittal, Advocate,
Ms. Aparna Singhal, Advocate and
Mr. Vishesh Dhaka, Advocate
for the respondent.

PARMOD GOYAL, J. (ORAL)

1. The plaintiffs-appellants are aggrieved by the judgment and decree dated 28.05.1990 passed by the learned Sub Judge Ist Class, Rajpura, as well as the judgment and decree dated 03.01.1995 passed by the learned District Judge, Patiala, whereby the suit for possession filed by the plaintiffs-appellants was dismissed and the first appeal preferred was also dismissed by the First Appellate Court.

2. The plaintiff-appellants sought possession of the suit property, as fully described in the plaint, on the ground that they are the owners thereof and that the defendants had taken illegal possession of the same about three years prior to the filing of the suit and were, therefore, liable to be evicted.

3. The defendants contested the suit by challenging the ownership of the plaintiffs and asserted that the plaintiffs are not the owners of the suit property.



The defendants further set up a plea of ownership by way of adverse possession against the original owner, claiming to be in peaceful, continuous, open, and hostile possession of the suit property for more than twelve years.

4. From the pleadings of the parties, the following issues were framed:

- “1. *Whether the plaintiffs are owners of the suit land? OPP.*
2. *Whether the defendant has become the owner of the suit land by adverse possession? OPD.*
3. *Whether the plaintiffs are estopped from filing the present suit by their own act, conduct and acquiescence? OPD.*
4. *Relief.”*

5. After considering the evidence led by the parties, Issue No. 1 was decided against the plaintiffs, holding that they failed to prove that they are the owners in possession of the suit property. Issue No. 2 was also decided in favour of the defendants, holding that they had acquired ownership by way of adverse possession.

6. Learned counsel for the appellants has placed reliance upon the following judgments of the Hon’ble Supreme Court:

- (i) ***P.T. Munichikkanna Reddy & Ors. Vs. Revamma and Ors.,*** 2007(2) R.C.R. (Civil) 847;
- (ii) ***T. Anjanappa and Ors. Vs. Somalingappa and Anr.,*** 2007(1) R.C.R. (Civil) 19;
- (iii) ***M. Radheshyamlal Vs. V. Sandhya and Anr. Et,*** 2024(2) R.C.R. (Civil) 351;
- (iv) ***Narasamma & Ors. Vs. A. Krishnappa (Dead) Through Lrs.,*** 2020 AIR (Supreme Court) 4178.

On consideration, I find that so far as the principles of law laid down



in the judgments referred to by learned counsel for the appellants are concerned, there is no dispute that in a case where adverse possession is pleaded, it is mandatory for the person claiming adverse possession to admit the ownership of the person against whom such adverse possession is claimed. However, in the present case, the respondent has not claimed adverse possession against the plaintiffs-appellants, rather, the respondent has asserted that the plaintiffs-appellants are not the owners of the suit property and has claimed adverse possession against the true owner. Therefore, none of the judgments relied upon by learned counsel for the appellants has any bearing on the facts and circumstances of the present case.

8. Learned counsel for the plaintiffs-appellants has argued that the learned Courts below has erred in not properly appreciating the revenue record, particularly the jamabandi for the year 1983-84 (Ex. P-3), wherein the plaintiff-appellants have been recorded as owners in possession of the suit property. Reliance has also been placed upon the judgment and decree dated 11.11.1982, passed in favour of the plaintiff-appellants, whereby the plaintiffs-appellants were held to be owners in possession.

9. The principal issue in the present case is whether the plaintiffs-appellants have succeeded in proving that they are the owners of the suit property or not. It is the specific case of the defendants-respondents that the suit property was originally owned by Gomti, widow of Jathu, and that no evidence has been led by the plaintiffs-appellants to show as to how they derived title to the suit property from the said Gomti, who is recorded as the owner in the revenue records.

10. Admittedly, the names of the plaintiffs-appellants appeared in the jamabandi (Ex. P-3) for the year 1983-84 for the first time. It is the claim of the plaintiffs-appellants that they succeeded the suit property from their father Gurdit



Singh, whose name appeared for the first time in the jamabandi for the year 1978-79 vide Ex. P-2. Ex. P-1 is also on record, which shows that Gomti wife of Jathu was the owner of the suit property prior to the year 1978-79.

11. Both the Courts below have rightly held that jamabandi is not a document of title but is prepared primarily for fiscal purposes, and the presumption attached thereto is limited and same cannot be held to be entitled for ownership. It was incumbent upon the plaintiff-appellants to prove that either they had purchased the suit property from Gomti Devi or had otherwise legally succeeded to the same. However, no such evidence is available on record.

12. The stray entry recorded in Ex. P-2 in favour of the father of the plaintiffs-appellants, namely Gurdit Singh, does not advance the case of the plaintiffs-appellants, as there is no evidence to show that Gurdit Singh had either purchased or succeeded to the suit property from Gomti Devi. Mere mutation or entry in the jamabandi cannot, by itself, confer ownership rights upon the plaintiff-appellants unless the source of title is duly established.

13. Similarly, Gurdit Singh could not have validly passed on any title in favour of the plaintiffs-appellants through the consent decree dated 11.11.1982, reliance upon which has been placed by the plaintiffs-appellants, unless his ownership over the suit property was first proved. The said decree, therefore, in the absence of proof of title of Gurdit Singh, is of no consequence insofar as the rights of the defendants are concerned.

14. In view of the aforesaid discussion, no fault can be found with the concurrent findings recorded by the learned Courts below insofar as the issue of ownership is concerned. No substantial question of law arises for consideration in the present appeal. The suit of the plaintiffs-appellants was bound to fail, as the burden lay upon the plaintiffs-appellants to prove that they were the owners of the



RSA-830-1995

suit property, which the plaintiff-appellants have failed to establish in the present case.

15. However, this Court finds merit in the contention raised by learned counsel for the appellants that the learned Courts below had erred in deciding issue No. 2 in favour of the defendants in the absence of the true owner of the suit property. It is well settled that in the absence of the true owner, a plea of adverse possession raised by a defendant cannot be accepted. Consequently, the findings recorded by the Courts below on issue No. 2 are liable to be set aside. It is, however, made clear that the defendant-respondents shall be at liberty to raise all pleas available to them in accordance with law against the true owner(s) of the suit property, as and when such a situation arises. Suit of appellants-plaintiffs is dismissed

16. The appeal is accordingly dismissed, with the aforesaid observations.

14.01.2026
manoj

(PARMOD GOYAL)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No