



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

(208)

RSA No.1470-1998 (O&amp;M)

Reserved on: 28.04.2026

Pronounced on: 05.05.2026

Uploaded on: 05.05.2026

Ajmer Singh (since deceased) through his LRs and others ....Appellants

Versus

Rup Chand and another

....Respondents

**CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL**

Argued by: Mr. Neeraj Jain, Advocate  
for the appellants.

Mr. Anil Shukla, Advocate  
for the respondents.

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**VIRINDER AGGARWAL, J**

1. The present Regular Second Appeal has been preferred by the appellants/plaintiffs assailing the judgment and decree dated 24.04.1998 passed by the learned District Judge, Rupnagar, whereby the appeal filed by the appellants was dismissed and the judgment and decree dated 06.01.1997 passed by the learned Civil Judge (Junior Division), Anandpur Sahib dismissing the suit for declaration and consequential relief of permanent injunction was affirmed.

**BACKGROUND FACTS**

2. Briefly stated, the plaintiffs-appellants instituted a suit for declaration to the effect that they are owners in possession of the suit land measuring 20 kanals 19 marlas, being 1/3rd share out of the total land measuring 62 kanals 18 marlas, on the basis of natural succession to the estate of Mela Ram and Nasib Singh, sons of Chandu. It was averred that the said Mela Ram and Nasib Singh



had died issueless and that the plaintiffs, being sons of Multan Singh son of Gangu, claimed that Gangu was the real brother of Chandu (son of Kehru), and thus they are the nearest collateral heirs entitled to inherit the estate. It was further averred that the defendants, claiming through the line of Nandu son of Saida, are remote collaterals and have no right, title or interest in the suit property. The mutations No.1567 and 1568 dated 29.01.1992 sanctioned in favour of the defendants were stated as illegal, null and void, having been obtained fraudulently and without notice on the basis of an incorrect pedigree. A consequential relief of permanent injunction and in the alternative joint possession, was also sought.

3. Upon notice, the defendants/respondents appeared and filed a written statement contesting the suit. It was pleaded that the suit was not maintainable, false, frivolous and barred by limitation, and that the plaintiffs had no locus standi. The pedigree set up by the plaintiffs was specifically denied. It was asserted that Chandu and Nandu were real brothers, being sons of Saida @ Gainda, and that Mela Ram and Nasib Singh were sons of Chandu. The defendants, being descendants of Nandu, were stated to be the nearest heirs. The mutations in their favour were pleaded to be valid and based on correct revenue record.

4. In replication, the plaintiffs reiterated the averments made in the plaint and denied those of the written statement. On the basis of the pleadings of the parties, the learned trial Court framed the following issues for adjudication :

*1. Whether the plaintiffs inherited the land in suit left behind by previous owners Mela Ram and Nasib Singh sons of Chandu son of Kehru, as alleged? OPP*

*2. Whether the suit of the plaintiff is time barred? OPD*



3. *Whether the suit is not maintainable? OPD*

4. *Relief.*

5. In order to substantiate his case, the plaintiffs examined PW1 Tarsem Singh, who appeared as the sole witness and reiterated the averments made in the plaint. The plaintiff also tendered in evidence copies of jamabandis for the years 1987–88 (Ex.P1), 1912–13 (Ex.P2) and 1916–17 (Ex.P3), along with a copy of order dated 15.06.1875 (Ex.P4) and death certificates of Mela Ram and Nasib Singh (marked A & B). On the other hand, the defendants examined DW1 Roop Chand (defendant no. 1), who supported the defence version as set up in the written statement, and placed on record copies of Shhajra Nasab Misal Haqiat for the years 1978–79 (Ex.D1, Ex.D2), another Shhajra Nasab for the year 1962–63, and mutation Nos. 1567 and 1568 (Ex.D3 and Ex.D4).

6. The learned trial Court, on appreciation of the oral and documentary evidence, dismissed the suit holding that the plaintiffs failed to prove their alleged inheritance. It was found that the pedigree set up by the plaintiffs was not established and stood contradicted by the revenue record. Aggrieved, the plaintiffs preferred an appeal. The learned First Appellate Court, on reappraisal of the entire evidence, dismissed the appeal and affirmed the findings of the trial Court, holding that the revenue record and Chhajra Nasab conclusively established the defendants' claim.

7. The present Regular Second Appeal has been filed by the plaintiffs challenging the concurrent findings recorded by the Courts below.

### **CONTENTIONS**

8. Learned counsel for the appellants has contended that the impugned judgments and decrees passed by the Courts below are unsustainable and suffer from misreading of evidence. It is argued that both the Courts have erred in



rejecting the claim of the plaintiffs despite cogent documentary evidence in the shape of earlier jamabandis Ex.P-2 (1912–13) and Ex.P-3 (1916–17) and the order dated 15.06.1875 Ex.P-4, which, correctly depict the pedigree. Counsel submits that the Courts below have wrongly relied upon the subsequent revenue entries, particularly jamabandi Ex.P-1 (1987–88), and the Shhajra Nasab Ex.D-1 and Ex.D-2, which are stated to be contrary to the earlier record. It is further contended that the findings regarding pedigree are perverse as the Courts have failed to appreciate that the plaintiffs, being descendants of Gangu, are nearer collaterals to Chandu as compared to the defendants. On these premises, it is prayed that the impugned judgments be set aside and the suit of the plaintiffs be decreed.

9. Per contra, learned counsel for the respondents has supported the concurrent findings recorded by the Courts below. He submits that the appellants-plaintiffs have failed to establish their pedigree and right of succession, and that the findings are based on proper appreciation of evidence. It is contended that the revenue record, particularly jamabandi Ex.P-1 (1987–88), produced by the plaintiffs themselves, records Chandu as son of Saida @ Gainda, which is further corroborated by the Shhajra Nasab Misal Haqiat Ex.D-1 and Ex.D-2 and the mutations Ex.D-3 and Ex.D-4. It is thus argued that the plaintiffs' own documentary evidence contradicts the pedigree set up in the plaint and supports the case of the defendants. Accordingly, it is submitted that no ground for interference is made out and the appeal deserves to be dismissed.

### **OBSERVATIONS AND FINDINGS**

10. I have heard learned counsel for the parties and considered their submissions in conjunction with the pleadings, evidence, and the findings recorded by the courts below. The entire record has been carefully examined to



determine whether the impugned judgment and decree suffer from any legal infirmity or error justifying interference by this Court.

11. As regards the scope of second appeal, it is now a settled proposition of law that in Punjab and Haryana, second appeals preferred are to be treated as appeals under Section 41 of the Punjab Courts Act, 1918 and not under Section 100 CPC. Reference in this regard can be made to the judgment of the Supreme Court in the case of ***Pankajakshi (Dead) through LRs and others V. Chandrika and others, (2016)6 SCC 157***, followed by the judgments in the case of ***Kirodi (since deceased) through his LR V. Ram Parkash and others, (2019) 11 SCC 317*** and ***Satender and others V. Saroj and others, 2022(12)Scale 92***. Relying upon the law laid down in the aforesaid judgments, no question of law is required to be framed.

12. The primary question that arises for consideration in the present Regular Second Appeal is whether the concurrent findings of facts recorded by the learned Courts below, whereby the suit of the plaintiffs for declaration of ownership with consequential relief of permanent injunction was dismissed, suffer from any perversity, misreading or misappreciation of evidence warranting interference by this Court.

13. Both the learned Courts below have returned concurrent and consistent findings that the plaintiffs have failed to establish the pedigree set up by them. The plaintiffs had pleaded that Kehru had four sons - Saida, Gangu, Chandu and Wazira and that Gangu's son Multan Singh was the father of the plaintiffs (Ajmer Singh, Pirthi Singh and Tarsem Singh). They claimed that Chandu's sons Mela Ram and Nasib Singh (who died issueless) were real brothers of Multan Singh, making the plaintiffs the nearest collaterals entitled to succeed to the estate of Mela Ram and Nasib Singh by natural succession. The defendants,



on the other hand, pleaded that Chandu and Nandu were real brothers, both sons of Saida @ Gainda, and that the defendants (Rup Chand son of Fakiria son of Nandu and Subhadra daughter of Fakiria) were the nearer heirs. The learned trial Court as well as the First Appellate Court, after thorough appreciation of the oral and documentary evidence, rightly placed primary reliance on the revenue record. Although the plaintiffs relied upon the earlier jamabandis Ex.P-2 (for the year 1912-13) and Ex.P-3 (for the year 1916-17) and the judicial order dated 15.06.1875 (Ex.P-4) to show that Chandu was son of Kehru, both the Courts duly considered these documents. However, the later jamabandi for the year 1987-88 produced by the plaintiffs themselves (Ex.P-1) records Chandu as son of Saida @ Gainda, which materially contradicts the pedigree pleaded in the plaint and severely undermines the plaintiffs' entire case on the crucial issue of succession.

14. More importantly, the burden of proving the specific pedigree and the relationship claimed by them with Mela Ram and Nasib Singh sons of Chandu lay squarely upon the plaintiffs under the Indian Evidence Act 1872. They were required to establish by reliable and cogent evidence that Chandu was the son of Kehru and that Gangu was the real brother of Chandu, thereby making the plaintiffs the nearest collaterals entitled to succeed by natural succession.

15. The defendants produced the Shhajra Nasab Misal Haqiat (pedigree tables) Ex.D-1 (for the year 1978-79) and Ex.D-2 (for the year 1962-63), prepared on the basis of the jamabandis and mutation proceedings after 1958-59. These documents consistently record Chandu and Nandu as real brothers and sons of Saida @ Gainda. The said pedigree tables formed the basis for sanctioning mutations Nos.1567 and 1568 dated 29.01.1992 (Ex.D-3 and Ex.D-



4) in favour of the defendants. These Shhajra Nasab tables, along with the consistent subsequent revenue entries, carry far greater evidentiary value. Even the later jamabandi for the year 1987-88 produced by the plaintiffs themselves (Ex.P-1) records Chandu as son of Gaimda and supports the defendants' version. The findings on the pedigree issue are, therefore, based on proper, comprehensive and meticulous appreciation of the entire oral and documentary evidence on record and do not suffer from any perversity, misreading or misappreciation.

16. The concurrent findings recorded on the crucial issue of pedigree and relationship of parties are based on a comprehensive and correct appreciation of the oral and documentary evidence on record. The said findings do not suffer from any perversity, illegality or material irregularity so as to warrant interference in second appeal.

17. In view of the above, the present Regular Second Appeal is **dismissed**. The judgment and decree dated 06.01.1997 passed by the learned Civil Judge (Junior Division), Anandpur Sahib and the judgment and decree dated 24.04.1998 passed by the learned District Judge, Rupnagar are hereby affirmed.

18. Since the main appeal stands decided, all pending miscellaneous application(s), if any, also stand disposed of.

(VIRINDER AGGARWAL)  
JUDGE

**05.05.2026**

*Saurav Pathania*

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|------|----------------------------------|---|---------------|
| (i)  | <i>Whether speaking/reasoned</i> | : | <i>Yes/No</i> |
| (ii) | <i>Whether reportable</i>        | : | <i>Yes/No</i> |