



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

(106)

RSA-1190-2022 (O&M)
Date of Decision: 08.05.2026

Harinder Singh and Another

... Appellants

Versus

Gurmeet Singh and Others

... Respondents

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CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

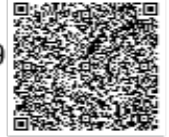
Present:- Mr. Gaurav Dutta, Advocate with
Mr. K.P.S. Dhaliwal, Advocate
for the appellants.

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VIRINDER AGGARWAL, J. (Oral)

1. The instant Regular Second Appeal (hereinafter referred to as the "RSA") is directed against the impugned decrees and judgments concurrently rendered by the learned Courts below. By way of the said findings, the suit instituted by the appellants–plaintiffs was dismissed in its entirety. The appellants now seek to assail these concurrent findings on the grounds that they are perverse, contrary to the weight of evidence, and involve substantial questions of law that warrant the intervention of this Court in its appellate jurisdiction.

2. Briefly stated, the appellants–plaintiffs instituted a suit for possession in respect of the land fully detailed and described in the head-note of the plaint. It was pleaded that appellant–plaintiff No.1 had been in possession of the suit land as owner through his father, namely Mahinder



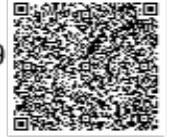
Singh, pursuant to an exchange deed dated 10.06.1988 allegedly executed with Gurdev Singh, the predecessor-in-interest of defendants No.1, 2, 4 and 5 and the husband of defendant No.3. It was further averred that plaintiff No.2, namely Mahinder Singh, had earlier instituted a suit for possession, which was withdrawn on 25.11.1997 upon a statement having been made that Gurdev Singh had already delivered possession of the suit property, and thereafter the plaintiffs continued in actual physical possession thereof. According to the appellants, Gurdev Singh subsequently got registered FIR No.21 dated 13.03.1999 under Sections 447, 427, 342, 506, 148 and 149 of the Indian Penal Code, pursuant whereunto the appellants were convicted and the respondents obtained possession of the suit property through warrants issued under Section 456 of the Code of Criminal Procedure. It was further pleaded that the agreement of exchange stood admitted by Gurdev Singh himself in an earlier civil suit instituted by him on 11.06.1991 and decided on 19.01.1993. On the basis of the aforesaid assertions, the appellants claimed entitlement to restoration of possession of the suit land.

3. The defendants contested the suit by filing a detailed written statement raising various preliminary objections, inter alia, regarding maintainability of the suit, locus standi of the plaintiffs, absence of cause of action, and concealment of material facts. On merits, it was specifically denied that plaintiff No.1 had acquired ownership or possession of the suit property on the basis of the alleged exchange dated 10.06.1988. Rather, it was asserted that Gurdev Singh, predecessor-in-interest of the defendants, remained the lawful owner in possession of the suit property throughout. It



was further pleaded that plaintiff No.2, namely Mahinder Singh, had instituted a false suit against Gurdev Singh in the year 1996 and, during the pendency thereof, Gurdev Singh had been forcibly dispossessed on 04.11.1997, following which Mahinder Singh withdrew the said suit by making a statement that possession had already been taken from Gurdev Singh. It was further averred that Gurdev Singh thereafter got registered FIR No.21 dated 13.03.1999; although the FIR was initially cancelled by the police authorities, Gurmeet Singh filed a protest petition, culminating in conviction of the plaintiffs and their associates vide judgment dated 29.03.2011, which conviction was subsequently affirmed in appeal. It was further pleaded that possession of the suit property was restored to the defendants in pursuance of orders passed in the aforesaid criminal proceedings and that the defendants are presently in lawful possession thereof. The defendants also alleged that the revenue entries reflected in the jamabandi were false and fabricated and further alleged that the plaintiffs and their associates were involved in the murder of Gurdev Singh, in respect whereof an FIR had been registered against unknown persons and, after investigation, an untraced report had been submitted, which was still pending consideration. It was additionally contended that the suit was barred under Order II Rule 2 of the Code of Civil Procedure, 1908 (for short, "CPC"). Upon conclusion of trial, the suit came to be dismissed by the learned Trial Court.

4. The appeal preferred against the aforesaid judgment and decree also came to be dismissed by the learned First Appellate Court. Aggrieved by the concurrent findings and decrees recorded by both the



learned Courts below, the present RSA has been instituted before this Court.

5. I have heard learned counsel for the appellants at considerable length and have meticulously perused the entire record with his able assistance.

6. Both the learned Courts below have undertaken a proper and correct appreciation of the revenue record, including the Jamabandies produced on record. The foundational case set up by the appellants-plaintiffs is that possession of Khasra Nos. 15//20 (2-18) and 21//1 (0-3) was delivered to them pursuant to the exchange agreement dated 10.06.1988 (Ex.P1). However, a careful examination of Ex.P1 reveals that there is no reference whatsoever to Khasra No. 21//1 (0-3). Rather, the document merely records that land measuring 10 kanals out of total land measuring 14 kanals 01 marla, including Khasra No. 15//20 (2-18), was agreed to be exchanged. Significantly, the appellants-plaintiffs have failed to specify or establish as to which particular khasra numbers comprising the said 10 kanals were allegedly delivered into their possession.

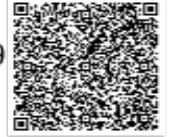
6.1. Furthermore, no *rapat rojnamcha* or any contemporaneous revenue entry evidencing delivery of possession pursuant to the alleged exchange has been produced on record. The learned Courts below, therefore, rightly construed the exchange deed to signify merely a transfer of ownership rights qua 10 kanals out of the larger holding measuring 14 kanals 01 marla, without there being any cogent evidence regarding delivery of possession of any specifically identifiable parcel of land.



6.2. A perusal of Jamabandi Ex.P10 for the year 2013–14 shows plaintiff No.2 Mahinder Singh recorded in possession of Khasra No. 15//20 (2-18), and mutation in favour of plaintiff No.1 is also reflected therein. However, notably, there is no reference therein to either ownership or possession of the plaintiffs over Khasra No. 21//1 (0-3). On the contrary, Jamabandi Ex.P12 for the year 1993–94 records Gurdev Singh, predecessor-in-interest of the respondents-defendants, in possession of Khasra Nos. 15//20 (0-18) and 21//1 (0-3). Likewise, Ex.P13 records Mahinder Singh in possession as purchaser of Khasra No. 15//20 (0-18), whereas it is not even the pleaded case of the appellants-plaintiffs that the property in dispute was ever purchased from the respondents-defendants.

6.3. The learned Trial Court has, thus, rightly concluded that specific delivery of possession pursuant to exchange deed Ex.P1 was never established on record. Rather, the material available demonstrates that possession of the suit property was restored to the respondents-defendants through proceedings before the criminal Court after it was found that the predecessor-in-interest of the respondents-defendants had been wrongfully dispossessed by the appellants-plaintiffs, resulting in their conviction, which conviction was further upheld in appeal.

6.4. Even during the course of arguments, learned counsel for the appellants was unable to point out any documentary evidence establishing lawful delivery of possession of the suit property to the appellants-plaintiffs. On the contrary, the findings returned by the criminal Court clearly affirm possession of the respondents-defendants. The same further stands corroborated by the admitted fact that plaintiff No.2 Mahinder



Singh had earlier instituted a suit for possession against Gurdev Singh, predecessor-in-interest of the respondents-defendants.

6.5. In the absence of any cogent, convincing, and legally admissible evidence establishing as to which specific khasra numbers measuring 10 kanals were delivered in possession pursuant to exchange deed Ex.P1, the learned Courts below rightly declined the relief sought by the appellants-plaintiffs. At best, the position emerging from the record is that the appellants-plaintiffs may be treated as co-owners in joint possession to the extent of 10 kanals out of total land measuring 14 kanals 01 marla, whereas the respondents-defendants continue to remain in exclusive possession of the khasra numbers in dispute.

6.6. Consequently, this Court finds no illegality, perversity, or material irregularity in the concurrent findings recorded by the learned Courts below warranting interference in exercise of jurisdiction under Section 100 of the Code of Civil Procedure, 1908. Accordingly, finding no merit in the present appeal, the same is hereby **dismissed**.

7. In view of the fact that the principal matter stands finally adjudicated, all pending miscellaneous applications, if any, shall also stand disposed of accordingly, no separate orders being required thereon.

08.05.2026
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No