



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

Reserved on :- 21.04.2026

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1. RSA-3950-1999
Date of Pronouncement:- 30.04.2026

Nishan Singh (Deceased) through his LRs

... Appellant(s)

Versus

Smt. Shibban and Others

... Respondents

2. RSA-3951-1999

Nishan Singh (Deceased) through his LRs

... Appellant(s)

Versus

Smt. Shibban and Others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Mr. B.S. Bhinder, Advocate
for the appellants **in both cases.**

Mr. Inderjit Sharma,
for respondent No.1 **in both cases.**

VIRINDER AGGARWAL, J.

1. Both the present Regular Second Appeals (hereinafter after to be referred as “RSAs” or “RSA”, as the case may be), though arising from distinct suits, pertain to the same parties and substantially involve the same corpus of land. In RSA No. 3950 of 1999, the entire estate of Smt. Veero is the subject matter of dispute, whereas RSA No. 3951 of 1999 concerns



only a part thereof. As both appeals emanate from rival claims inter se the parties in respect of land formerly owned by Smt. Veero, they are being taken up together for analogous consideration and disposal.

2. The factual matrix giving rise to RSA No. 3950 of 1999 may, in brief, be delineated thus:-

2.1 The plaintiff, Smt. Shibban, asserting herself to be the granddaughter of Smt. Veero, the erstwhile owner of the suit land as detailed in the headnote of the plaint, instituted a suit for possession of land measuring 96 Kanals and 1 Marla. She claimed co-sharership in the larger holding measuring 296 Kanals and 9 Marlas to the extent of a one-third share, on the premise that Smt. Veero held such share, which upon her demise devolved upon her sole daughter, Mohinder Kaur, and thereafter upon the plaintiff as her legal heir. It was alleged that the defendants were in unauthorized and illegal possession of land measuring 25 Kanals and 5 Marlas, comprised in specified khasra numbers as reflected in the revenue record.

2.2. It is pertinent to note that RSA No. 3951 of 1990 arises from a suit instituted by defendant Nishan Singh against the present plaintiff, wherein he asserted ownership over the said 25 Kanals and 5 Marlas on the plea that he had initially entered the land as a tenant under Smt. Veero and, upon her demise, continued in uninterrupted possession, thereby perfecting title by way of adverse possession, having ceased to pay rent to any person.

2.3. It was further pleaded that Nishan Singh had earlier been adjudged to be in unauthorized possession of the aforesaid land in Civil



Suit No. 30 of 1977, decided on 11.11.1978. On the strength of the said finding, the plaintiff contended that the defendant had no lawful right to retain possession over that land and, accordingly, sought a decree for possession of the suit land measuring 96 Kanals and 1 Marla.

3. Upon service of summons, only defendants No. 1 and 5 entered appearance and contested the suit by filing a written statement. Preliminary objections were raised, *inter alia*, as to the maintainability of the suit, lack of locus standi, and the bar under Order II Rule 2 and Section 11 of the Code of Civil Procedure, 1908 ('CPC' for short), in view of the dismissal of an earlier suit instituted by the plaintiff on 10.09.1987 by the learned Sub-Judge, First Class, Gurdaspur. It was also contended that the suit suffered from non-joinder of necessary parties.

3.1 On merits, the defendants denied the plaintiff's claim of succession and co-sharership. It was averred that the father of defendant No. 1 had been cultivating the land measuring 25 Kanals and 5 Marlas, originally owned by Smt. Veero, and that following his demise, defendant No. 1 stepped into his position and had remained in continuous, open, and hostile possession thereof for over three decades to the knowledge of the plaintiff. It was further asserted that he had installed a tubewell on the said land and had not paid rent to any person, thereby perfecting his title by adverse possession. The correctness of the revenue entries depicting him as a tenant was specifically disputed. The defendants also contended that Smt. Veero died issueless and that the plaintiff was not her lawful heir; reliance



was placed upon a statement allegedly made by Narayan Singh, father and attorney of the plaintiff, in earlier proceedings to that effect.

4. The plaintiff filed a replication traversing the assertions made in the written statement. In the connected suit, she also filed a written statement contesting the claim of Nishan Singh and specifically denying that he had perfected title to the suit land by way of adverse possession.

4.1 Upon a meticulous and comprehensive appraisal of the pleadings and rival submissions, the learned Court, with a view to delineate the real controversies between the parties and to facilitate an effective and adjudicatory determination, the Trial Courts framed the requisite issues for consideration:-

RSA-3950-1998

1. Whether the plaintiff has become the owner of the suit property by way of adverse possession ? OPP.
2. Whether the defendant is entitled to inherit the suit property being heirs of Viro deceased? OPD.
3. Whether the suit is barred under Section 11 CPC? OPD.
4. Whether the suit is not maintainable in the present form? OPD
5. Whether the plaintiff is entitled to declaration prayed for? OPP.
6. Whether the plaintiff is entitled to injunction prayed for? OPP.
7. Relief.

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- 1) Whether the plaintiff is- co-sharer of land measuring 296 Kls 9 mls as alleged to the extent of 1/3 share? OPP.
- 2) Whether the plaintiff has inherited share of Smt Veero to the extent of 1/3 share out of land measuring 296 kanals as illegal? OPP.



- 3) Whether Mohinder Kaur was nearest legal heir of Smt Veero and had inherited Smt Veero? OPP.
- 4) Whether the plaintiff is entitled to possession of the suit land as prayed for? OPP
- 5) Whether plaintiff has no locus standi to file the present suit ? OPD
- 6) Whether suit is not maintainable due to pendency of Civil suit filed as Nishan Singh Vs Smt Shibban? OPD.
- 7) Whether suit is barred under Order 2 Rule 2 and also under Section 11 C.P.C? OPD.
- 8) Whether suit is bad for non- joinder of necessary parties? OPD.
- 9) Whether defendants have become owners of suit land by way of adverse possession? OPD
- 10) Relief.

5. Upon the framing of issues, both parties were afforded full and adequate opportunity to adduce evidence in support of their respective cases. After a comprehensive appreciation of the evidence and upon hearing learned counsel for the parties, the learned Sub-Judge IIIrd Class, Gurdaspur decreed the suit instituted by Smt. Shibban. The appeal preferred by the appellant-defendant against the said decree came to be dismissed. In the connected proceedings, the suit instituted by the appellant-defendant was likewise dismissed, and the appeal arising therefrom met with the same fate. Aggrieved by the concurrent findings and the judgments and decrees passed by the Courts below, the appellant-Nishan Singh has preferred the present Regular Second Appeals.

5.1 Both the appeals were admitted for hearing vide order dated 11.08.2003 and were directed to be heard analogously.



5.2 Upon issuance of notice, respondent No.1-Shibban entered appearance through counsel and contested the appeals. The records of the Courts below were duly requisitioned and are available on the Digital Management System ('DMS') for perusal and adjudication.

6. I have heard learned counsel for the parties at considerable length and have accorded anxious and thoughtful consideration to their respective submissions, in the light of the pleadings on record, the evidence adduced by the parties, and the concurrent findings returned by the Courts below.

7. 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/s Chandrika and others, (2016)6 SCC 157***, followed by the judgments in the case of ***Kirodi (since deceased) through his LR V/s Ram Parkash and others, (2019) 11 SCC 317 and Satender and others V/s 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.

8. Learned counsel for the appellant—Nishan Singh has strenuously contended that the judgments and decrees passed by the Courts below are vitiated by a patent misreading and misappreciation of the evidence on record. It is submitted that the Courts below failed to



appreciate that the respondent—Shibban had earlier instituted a suit on the same cause of action, of identical nature, and against the same party, titled *Shibban vs. Nishan Singh* (Civil Suit No. 403 dated 23.12.1985), which was withdrawn without obtaining leave to institute a fresh suit on the same cause of action; consequently, the present suit is barred in law. It is further contended that the respondent has failed to establish any legal relationship with Smt. Veero, the erstwhile owner of the suit property. Reliance is placed upon the deposition of Narayan Singh, father of the respondent, in the earlier proceedings, wherein he allegedly admitted that Smt. Veero died issueless an admission which, it is argued, operates as an estoppel against the respondent's present claim of being her granddaughter.

8.1. It is also urged that the Courts below have erred in disregarding the appellant's plea of adverse possession. According to learned counsel, the appellant has been in open, continuous, and hostile possession of the suit land, to the knowledge of the respondent, for a period exceeding twelve years, and has thereby perfected title. It is contended that the finding to the contrary is unsustainable, particularly in view of the admitted fact that the appellant has been in possession of 25 Kanals and 5 Marlas of land for more than eighteen years without payment of rent. On these premises, it is prayed that the impugned judgments and decrees be set aside and both appeals be allowed.

9. Per contra, learned counsel for the respondent-Shibban has supported the impugned judgments and decrees, contending that the same are founded upon a correct and comprehensive appreciation of the



pleadings and evidence on record. It is submitted that no illegality or infirmity can be attributed to the concurrent findings of the Courts below. It is further argued that the relationship between Smt. Veero and the respondent already stands conclusively established in prior litigation inter se the parties, wherein the appellant himself had admitted such relationship.

9.1. It is also contended that the appellant has failed to discharge the burden of proving adverse possession in accordance with settled principles of law. Mere long possession or non-payment of rent, it is urged, does not *ipso facto* constitute adverse possession in the absence of clear, cogent, and unequivocal evidence demonstrating hostile animus against the true owner. Accordingly, dismissal of the appeals is prayed for.

10 The learned First Appellate Court, in the suit instituted by Shibban, has recorded a categorical finding that Smt. Veero held the suit land to the extent of a one-third share and that she had no surviving issue at the time of her death, except through whom the respondent claims succession. It has been noticed that, in the earlier proceedings as well as in the pleadings, Nishan Singh had acknowledged that Shibban is the daughter of the pre-deceased daughter of Smt. Veero. On the basis of oral and documentary evidence, the relationship between Smt. Veero and the respondent has thus been duly established.

10.1. It has further been held that the Will propounded by Nishan Singh stood disbelieved in the earlier litigation (Ex. P1), and that the respondent successfully proved her co-sharership to the extent of one-third



share in the suit land by succession from Smt. Veero. With regard to the plea of adverse possession, the learned First Appellate Court has rightly observed that the appellant failed to adduce any evidence specifying the point of time when his possession allegedly became adverse. On the contrary, in the earlier litigation, the appellant had asserted ownership on the basis of the alleged Will and not on the basis of adverse possession. In such circumstances, the essential ingredients of adverse possession having not been established, the appellant's possession cannot be said to have matured into ownership.

11. Insofar as the contention regarding the bar under Order II Rule 2 and Section 11 of the Code of Civil Procedure, 1908, as well as Order XXIII CPC, is concerned, the same is devoid of merit. Although it has been contended that the earlier suit filed by the respondent on the same cause of action was withdrawn without liberty to institute a fresh suit, the record reveals that Ex. D1 is merely a copy of the statement of Narayan Singh recorded as PW-1 in Civil Suit No. 403/1984 titled *Shibba vs. Narayan Singh*, and not a copy of the pleadings or the order whereby the said suit was withdrawn.

11.1. It is further evident that the earlier suit pertained only to land measuring 25 Kanals and 5 Marlas and not to the entire estate of Smt. Veero. In order to substantiate the plea of bar under the aforesaid provisions, it was incumbent upon the appellant to produce the complete pleadings and the final order passed in the earlier suit. In the absence of such foundational evidence, the plea remains unsubstantiated. The Courts



below have, therefore, rightly declined to accept the said contention, the same being unsupported by cogent and legally admissible evidence.

12. Insofar as the contention advanced by learned counsel for the appellant regarding the alleged admission made by Narayan Singh in the earlier proceedings is concerned, the same is wholly misconceived and untenable in law. It is sought to be contended that Narayan Singh, who appeared as PW-1 in the previous suit instituted by Shibban in his capacity as her attorney, admitted in his statement (Ex. D1) that Smt. Veero had no issue. A careful perusal of Ex. D1 reveals that, at one place, Narayan Singh has stated in the vernacular that “Veero da koi bachha nahi si.” It is, however, well-settled that an admission cannot be construed in isolation, and the statement of a witness must be read as a whole to ascertain its true import.

12.1. In the Punjabi vernacular, the term “*Bachha*” is often colloquially understood to denote a male child. When the entirety of the cross-examination of Narayan Singh is considered in its proper perspective, it becomes evident that he never intended to depose that Smt. Veero was issueless. On the contrary, he categorically stated that Smt. Veero was his mother-in-law and that Shibban had been residing with her maternal grandmother, i.e., Smt. Veero, and after her demise, she came to reside with him. Thus, the statement, when read holistically, unmistakably establishes that Smt. Veero did have issue, and the reference to “bachha” cannot be construed to negate the existence of a female child.



Consequently, no binding admission can be said to have been made by Narayan Singh to the effect that Smt. Veero was issueless.

12.2. The Courts below have, therefore, rightly relied upon the earlier litigation initiated by Nishan Singh, namely Civil Suit No. 30 of 1977, which went up to the Hon'ble Supreme Court, wherein the judgments of the Trial Court (Ex. P1), the First Appellate Court (Ex. P2), and this Court (Ex. P3) are on record. In the said proceedings, Nishan Singh himself had admitted the relationship between Shibban and Smt. Veero, and the Courts had returned a categorical finding that Shibban is the daughter of Mohinder Kaur, the predeceased daughter of Smt. Veero. Moreover, the Will propounded by Nishan Singh in those proceedings also contained recitals acknowledging the said relationship. In view of the aforesaid, the conclusion arrived at by the Courts below that the respondent-Shibban is the granddaughter of Smt. Veero and entitled to succeed to her estate is well-founded and legally unassailable.

12.3. As regards the plea of adverse possession, the concurrent findings recorded by the Courts below also merit affirmation. It is a settled principle that mere long possession, however extended, does not ipso facto ripen into adverse possession unless accompanied by clear and unequivocal evidence of hostile animus against the true owner. In the present case, the appellant-Nishan Singh has failed to establish the essential ingredients of adverse possession, particularly the specific point of time when his possession allegedly became hostile. Admittedly, his initial entry into possession was as a tenant under Smt. Veero. Significantly, in the earlier



suit (Ex. P1), the appellant had asserted ownership on the basis of an alleged Will and not on the basis of adverse possession, thereby negating any claim of hostile possession.

12.4. The mere fact of prolonged possession coupled with non-payment of rent cannot, in law, convert permissive possession into adverse possession. In this regard, reliance may be placed upon the judgment of the Hon'ble Supreme Court in *Prem Nath Khanna and Others vs. Narinder Nath Kapoor (Dead) through LRs and Others, (2016) 12 SCC 235*, wherein it has been authoritatively held that where possession is initially permissive, the burden lies heavily upon the person asserting adverse possession to prove that such possession has become hostile, and that mere long possession does not suffice. The appellant having failed to discharge this burden, his plea of adverse possession is liable to be rejected.

13. In view of the foregoing analysis, this Court finds no infirmity, illegality, or perversity in the concurrent findings recorded by the Courts below. The appellant cannot be held to have perfected title to the suit property by way of adverse possession. Consequently, both the appeals, being devoid of merit, are hereby **dismissed**, and the judgments and decrees passed by the Courts below are affirmed.

14. Since the principal matter has been finally adjudicated on its merits, all pending miscellaneous applications and ancillary proceedings are hereby deemed disposed of as a necessary consequence. No separate or individual orders are required to be passed regarding these applications.



15. A certified copy of this judgment shall be placed in the connected case. This is intended to serve as a formal point of reference and to ensure full compliance with the directions contained herein, if any, across the related matter.

30.04.2026
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No