

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****111****RSA-1085-2025 (O&M)****Date of decision: 18.04.2026****Rajbir and others****...Appellant(s)****Vs.****Balwan and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Dr. Pankaj Nanhera, Senior Advocate with
Mr. Sanjay Kumar, Advocate for the appellants.

NIDHI GUPTA, J.

Defendants are in Second Appeal against the judgment of reversal; whereby suit filed by the plaintiffs/respondents for permanent injunction although dismissed by the learned Trial Court, has been decreed by the learned First Appellate Court

2. Brief facts of the case are that the plaintiffs/respondents herein had filed the instant Civil Suit seeking permanent and mandatory injunction restraining the defendants from interfering in the possession of the plaintiff in the suit land as described in the head note of the plaint. It was pleaded that plaintiffs are owners in possession of suit property measuring 23K-9M as described in the plaint. It was contended that a wrong entry was existing in the revenue record in the name of defendants No.1 to 3 showing them to be in possession of the suit property. Accordingly, the erstwhile owners had filed 2 applications for correction of



Khasra Girdawari before the Revenue Court. Vide order dated 12.01.2018, correction was made in Khasra Girdawari in favour of the erstwhile owners by virtue of Rapat Nos. 348 and 349. Defendants had also filed Appeals before the Assistant Collector 1st Grade-cum-Collector, Siwani, which were dismissed vide order dated 20.02.2019. It was contended that defendants have no concern with the suit land however, with evil eye they are threatening to damage the crops standing on the land of the plaintiffs. On 06.07.2018, defendants had tried to interfere in the possession of the plaintiffs over the suit land. However, they have failed. In this regard, a DDR No. 27 dated 06.07.2018 was registered against the defendants. Despite that, they continued threatening to dispossess the plaintiffs from the suit land. Consequentially, plaintiffs have filed instant civil suit on 06.04.2019.

3. Upon appraisal of the pleadings and the evidence led by the parties, the learned Additional Civil Judge (Senior Division), Siwani, District Bhiwani had dismissed the suit of the plaintiffs vide judgment and decree dated 17.01.2023 on the ground that as per the Jamabandi for the year 2013-2014 brought on record by the plaintiffs as Ex.P1, names of defendants No.1 and 2 have been shown in the cultivation column. It was further noticed that as per the Mutations Ex.P2 and Ex.P3 which were sanctioned in favour of the plaintiffs, and as per Jamabandi for the year 2018-2019 Ex.P4, plaintiffs have been shown in cultivating possession. It was further seen that plaintiffs themselves have placed on record latest Khasra Girdawari for the year 2018-2019 Ex.P6 in which possession of



defendants No.1 and 2 has been shown. Consequentially as Khasra Girdawari is a document of possession, possession of the defendants over the suit property was established and, therefore, suit was dismissed. It was further held that as per the judgment dated 12.02.2013 Ex.D1 rendered in a suit filed by one Ram Narayan against the defendant Rajbir et cetera, it was found by the Civil Court that they/defendant No.3 was in cultivating possession of the suit land. It was accordingly held that once defendants were shown to be in cultivating possession of suit land by a Civil Court then plaintiffs have to prove on case file that defendants were evicted from the suit property by a competent authority or Court. However, no document was brought on case file by the plaintiffs. Accordingly, suit of the plaintiffs was dismissed.

4. Plaintiffs had filed Civil Appeal against the aforesaid judgment and decree, which was accepted by the learned Additional District Judge, Bhiwani vide impugned judgment and decree dated 30.01.2025. Hence, the present second appeal by the defendants.

5. It is *inter alia* submitted by learned Senior Counsel for the appellants that it is proven on record that the defendants are in possession of the suit property since 1986. Therefore, learned Trial Court has correctly recorded that defendants are in cultivating possession as tenant gair marusi over the suit land; and that plaintiffs have failed to produce any document to prove that defendants were ever evicted from the suit land by any competent authority or Court of law. No lawful eviction of the appellants has been ordered by any Court of law.



Therefore, the plaintiffs can seek eviction of the appellants from the suit property only in accordance with law. As such, given the admitted possession of the appellants over the suit property, suit of the plaintiffs could not have been decreed.

6. Learned Senior Counsel for the appellants further submits that the learned Additional District Judge while setting aside well-reasoned and sound judgment and decree passed by the trial Court and ignoring the evidence i.e. Ex.D-1 Judgment dated 12.02.2013 passed in Civil Suit no. 55 of 2010 in which it was held that Rajbir etc. (Defendants/appellants) were admittedly in the cultivating possession of the suit land; and Ex.D15 to Ex. D-20 i.e. Khasra Girdawaris since 1986, from the perusal of the same it is evident that earlier mother of the defendants was in the possession of the suit land and after her death the defendants came in possession of the suit land. It has further been wrongly held that neither there was any pleading nor any evidence led by the defendants that earlier Jaimal was paying how much rent to the owner Ganesh and since when the tenancy commenced. There was no contract of tenancy. There is no receipt of rent. Such right is not inheritable. The entry of Gair Marusi will not clothe them with the status of a tenant much less the occupancy tenant. Thus, the judgment and decree passed by the 1st Appellate court which is based on the misreading of the evidence led by the parties and is liable to be set aside.

7. It is further submitted by learned Senior Counsel for the appellants that the Ld. Appellate Court has given a finding that the



Judgment dated 12.02.2013 Ex.D1 produced by the appellants/defendants whereby it was held that the defendants no. 1 & 2 are in the Cultivating possession of the suit land, is not binding upon the rights of the plaintiffs because they were not party to the said judgment. It is contended that the plaintiffs have purchased the suit land in the years 2018 while the said judgment was passed way back in Year 2013 and it is well settled law that the subsequent purchasers steps in the shoes of the previous owners and hence the said judgment is very much binding upon the rights of the plaintiffs. On this score also the judgment of the lower appellant court is liable to be set-aside.

8. In support, learned Senior Counsel for the appellants refers to the judgment passed by Hon'ble Supreme Court in **Mansu vs. Shadi Ram (SC) Law Finder Doc Id# 36825**.

9. It is accordingly prayed that the present Appeal be allowed; and the impugned judgment and decree dated 30.01.2025 passed by learned Additional District Judge, Bhiwani be set aside.

10. No other argument is raised on behalf of the appellants. I have heard learned Senior counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the appellants.

11. The appellants are claiming to be in possession of the suit property on the strength of the revenue entries. The Trial Court had dismissed suit of the plaintiff on the ground that as per Jamabandi for the year 2013-2014 Ex.P1, appellants are shown to be in cultivating possession of the suit land; as also on the basis of Khasra Girdawari for



the year 2018-2019 Ex.P6 whereby appellants are shown to be in possession of the suit land. However, it is undisputed fact on record that the said revenue entries were incorrect; and stood corrected by the Revenue Court vide order dated 12.01.2018; in pursuance to which Khasra Girdawari entries were made in favour of the erstwhile owners by virtue of Rapat Nos. 348 and 349; in pursuance to which Mutations Ex.P2 and Ex.P3 were sanctioned in favour of the plaintiffs; and entries of correction of Khasra Girdawari have also been incorporated in Jamabandi for the year 2018-2019 Ex.P4. It is also not disputed by learned Senior Counsel for the appellants that the said order dated 12.01.2018 had been challenged by the appellants by way of appeals filed before the Assistant Collector-cum Collector 1st Grade, Siwani; which appeals were dismissed vide order dated 20.02.2019. It is not the case of the appellants that the said order dated 20.2.2019 has been further challenged by them. Nothing has been brought to the notice of this Court that the order dated 20.2.2019 was further challenged by the defendants. Therefore, for all intents and purposes the order dated 20.2.2019 has attained finality. The appellants were basing their claim on the incorrect revenue record, which, admittedly, stands corrected. Thus, as per the corrected revenue record, plaintiffs are in possession of the suit property.

12. Reasoning of the learned trial court that Khasra Girdawari for the year 2018-2019 Ex.P6, being document of possession, reflected possession of the appellants, is based on misreading of the evidence. It is



categorically recorded by learned First Appellate Court, that in Khasra Girdawari Ex.P6, there is red entry in the Rapat no. 348 and 349.

13. As regards the judgment dated 12.02.2013 Ex.D1, no doubt, as per the said judgment, defendants were held to be in cultivating possession of the suit land. However, plaintiffs were not party to the said suit; and no such admission was made by them. Thus, judgment Ex.D1 cannot be held to be binding upon the rights of the plaintiffs. Moreover, Orders dated 12.1.2018 and 20.2.2019 were passed after the passing of the judgment dated 12.2.2013. Thus, the said judgment is of no relevance at this stage.

14. Furthermore, it is the case of the appellants that Jaimal was a tenant gair marusi over the Suit land under the previous owner, Ganesha; and that the said Jaimal had relinquished his tenancy rights over the land in favour of the defendants with the consent of Ganesha. However, neither is there was any pleading nor any evidence led by the defendants that earlier Jaimal was paying rent; how much rent was he paying to the owner Ganesha; and since when the tenancy had commenced. There was no contract of tenancy. There is no receipt of rent. In any event, such right is not inheritable. The entry of Gair Marusi will not clothe the appellants with the status of a tenant much less the occupancy tenant.

15. It may further be clarified that Khasra Girdawari corrections were ordered by the Assistant Collector-cum-Collector, 1st Grade, Siwani vide order dated 12.01.2018 for the Rabi crop 2017 after spot inspection and verifying the possession on the spot at that time. It is very important



to note that at that time, defendants No.1 and 2, and Partap Singh and Ram Narayan sons of Jaimal had recorded their statements, which were duly thumb marked by them, in which they admitted that they had no objection in case the said corrections are incorporated in the Khasra Girdawri. They had further stated that previously they were cultivating the land; and now the land measuring 12K-6M is being cultivated by the plaintiff. Partap Singh and Ram Narayan had also stated that Girdawari entries in respect of land measuring 11K-3M were wrongly entered in their names, and they had no objection if the same is corrected in favour of the applicants/plaintiffs, who have been cultivating the land.

16. Relevant findings of learned Additional District Judge as contained in para 32 of the judgment dated 30.01.2025, as under: -

“32. The learned Trial Court has erroneously misread the copy of Khasra Girdawari for the year 2018-19 (Ex. P6). The learned Trial Court has failed to notice that Khasra Girdawari entries were corrected in the name of plaintiffs and the same were incorporated in the revenue record by virtue of rapat no. 348 and 349. The perusal of Khasra Girdawari (Ex.P6) reveals that there is a red entry of rapat no. 348 and 349, which was not taken into consideration by the learned Trial Court. The learned Trial Court has further erroneously taken into consideration that in the judgment Ex. D1 defendants were admitted to be in cultivating possession of the suit land by the then learned Court. Firstly, the judgment Ex. D1 is not binding upon the rights of the plaintiffs because they were not party to the said judgment. Secondly, Khasra Girdawari correction was ordered to be corrected by Assessment Collector IInd Grade, Siwani vide order dated 12.01.2018 for



the crop Rabi 2017, after spot inspection and verifying the possession on the spot. Further the defendants no. 1 and 2 as well as Partap Singh and Ram Narayan sons of Jaimal have made their statements, which were duly thumb marked by them, in which they categorically admitted that they were having no objection in making correction of Khasra Girdawaries. Earlier they were cultivating the land now the land measuring 12 Kanal 06 Marlas is being cultivated by the plaintiff. Similarly, Partap Singh and Shri Ram Narayan had also stated that the entries of Girdawari of land measuring 11 Kanals 03 Marlas has been wrongly reflected in their names and they are having no objection in case the same be corrected in the name of applicants, who have been cultivating the land. Even, the appeal filed by the defendants no. 1 and 2 have also been dismissed by the Assistant Collector Ist Grade, Siwani vide order dated 20.02.2019. As such, the defendants have also estopped by their own act and conduct and therefore, they have no right to question the correction of entries of Khasra Girdawaries, which has attained finality. Hence, the Assistant Collector IInd Grade, Siwani has got jurisdiction to make correction in the Khasra Girdawari for the period subsequent to the preparation of Jamabandi for the year 2013-14. Therefore, the findings of the learned Trial Court that there is no document placed on record by the plaintiffs to prove the fact that possession from the defendants was taken by the previous owners of the suit land or by the plaintiffs are totally erroneous and suffering from perversity, hence, the same are not sustainable in the eyes of law and therefore, the findings on issue no. 1 arrived by the learned Trial Court are liable to be reversed."



17. Contention of the learned Senior Counsel that appellants have not been evicted in accordance with law, is misconceived; as alleged possession, if any, of the appellants was based on incorrect revenue entries; which admittedly now stand corrected. Thus, in actual fact, appellants have failed to prove their possession over the suit property. The aforesaid judgment in **Mansu** supra relied upon by learned Senior Counsel for the appellants is distinguishable on facts and law.
18. The present appeal accordingly stands **dismissed**.
19. Pending applications, if any, stand disposed of.

18.04.2026

Divyanshi

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No

(NIDHI GUPTA)
JUDGE