



RSA-4187-2001(O&M)

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

(238)

RSA-4187-2001(O&M)
Reserved on : 19.02.2026
Pronounced on : 21.04.2026
Uploaded on : 22.04.2026

Parkash and Others

.....Appellants

Versus

Dial Singh and Others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. Aarush Kashyap, Advocate, and
Ms. Ramandeep, Advocate,
for the appellants.

Respondents were proceeded against *ex parte*
vide order dated 23.04.2007.

AMARINDER SINGH GREWAL, J.

1. The appellants-Parkash Singh and Others have challenged the judgment and decree dated 27.08.2001 passed by the learned District Judge, Kapurthala, whereby the appeal filed by the respondents-plaintiffs have been accepted and set aside the judgment and decree dated 17.04.1997, passed by learned Additional Civil Judge (Senior Division), Kapurthala.

1.1 For the sake of convenience, the parties shall be referred to in terms of their status before the trial court.

2. Briefly stated, the facts of the case are that Dial Singh was the owner of the suit land to the extent of ½ share, whereas Chanan Singh was the owner of the remaining ½ share. Chanan Singh alienated his ½ share in



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favour of respondent No.2–Iqbal Singh and respondent No.3–Jaswinder Singh vide registered sale deeds dated 05.03.1979 and 05.07.1979, respectively. Consequently, respondents No.2 and 3 became owners in possession of the said property. It is further the case of the plaintiffs that a few months prior to the institution of the present proceedings, the defendants illegally took possession of the land in dispute. Thereafter, defendant No.1 instituted a suit for injunction against Bachan Singh and his sons, wherein the defendants made a statement before the Court on 07.05.1995 to the effect that they would not dispossess the plaintiffs from the suit land forcibly. The said suit came to be dismissed by the learned Sub Judge 1st Class, Kapurthala. However, despite the same, after having taken possession of the suit land, the defendants started raising construction thereupon. Subsequently, the respondents-Dial Singh and Others instituted a suit for recovery of possession on 14.03.1995.

3. Upon notice, the defendants-Parkash and Others appeared and filed their written statement contesting the suit, raising various preliminary objections and they also took the plea that they have become owners of the suit land by way of adverse possession. The plaintiff filed a replication denying the contents of the written statement and reiterating the averments made in the plaint.

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



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1. Whether the plaintiffs have appointed Bachan Singh as their attorney vide power of attorney dated 10.03.1995 and the suit has been filed by a competent person on behalf of the plaintiffs?OPP.
2. Whether the plaintiffs are entitled to a decree for recovery of possession of the disputed land and also for permanent injunction as prayed for? OPP
3. Whether plaintiffs have no cause of action?OPD
4. Whether defendants have become owners in possession of the suit land by way of adverse possession? OPD
5. Whether suit is not maintainable in the present form? OPD
6. Relief.

5. The parties led evidence in support of their respective cases. After hearing learned counsel for the parties and on appreciation of the evidence on record, the Additional Civil Judge (Senior Division), Kapurthala, dismissed the suit of the respondents/plaintiffs vide judgment and decree dated 17.04.1997 by giving issue-wise findings. Aggrieved against the said judgment and decree, the plaintiffs preferred an appeal before the learned District Judge, Kapurthala, who, vide judgment and decree dated 27.08.2001, accepted the appeal of the respondents-plaintiffs and set aside the judgment and decree dated 17.04.1997.

6. Feeling dissatisfied from the judgment and decree dated 27.08.2001, the appellants have knocked the door of this Court by way of filing a regular second appeal praying that the same be accepted, the impugned judgment and decree dated 27.08.2001 passed by learned District



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Judge, Kapurthala be set aside and affirm the judgment and decree dated 17.04.1997, passed by learned Additional Civil Judge (Senior Division), Kapurthala.

7. Learned counsel for the appellant contended that the judgment and decree passed by the learned First Appellate Court are contrary to law as well as the facts available on record and are based on vague and erroneous appreciation of evidence, whereas the judgment and decree passed by the learned trial Court is well-reasoned and founded upon proper and correct appreciation of the evidence led by the parties. It was argued that the learned First Appellate Court had made erred in not considering the point that the possession of trespasser is always adverse and as such, the limitation period of 12 years as prescribed by Article 65 of the Limitation Act starts running from the day a trespasser takes possession against the rights of the real owner and in the case at hand, the appellants are in undisputed possession of the suit land for more than 40 years and therefore, they are entitled for adverse possession as rightly held by learned trial Court. He further submitted that respondents/plaintiffs had themselves taken the stand that appellants/defendants had taken forcible possession of the suit land, however, their contention was that the appellants had taken the forcible possession only 1½ years back, whereas the Courts found that the appellants/defendants were in occupation of the land for almost 40 years. Therefore, the contention of the respondents/plaintiffs is totally false and vague. He further submitted that the respondents/plaintiffs had filed the suit for possession on the ground that the appellants/defendants took forcible possession of the land only 1½ years ago. However, this stand has



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been duly declined by learned trial Court as well as learned First Appellate Court and the said suit has been dismissed on the ground of not coming with clean hands. He further contended that the main question before learned Courts is that this adverse possession was long enough to debar the respondents/plaintiffs' claim for possession or not, however, this point is clearly from the judgment passed by learned both Courts below that the possession of the appellants/defendants was for almost 40 years, therefore, the appellants/defendants are entitled to become owners of the suit land by adverse possession. Further, learned counsel contended that appellants had clearly proved that they are in possession of the suit land for more than 12 years continuously, and such they have become owner of the suit land by way of adverse possession and respondents were barred from filing the suit for possession. He further contended that in the present case, the main question is arises that forcible possession taken by trespasser, which continues for almost 40 years unchallenged, is considered to be adverse possession and entitled the occupier to claim the ownership by way of adverse possession. Therefore, in view of the Article 65 of the Limitation Act, the suit filed by the respondents/plaintiffs has become time barred and the appeal filed by the appellants may kindly be accepted and the judgment and decree dated 27.08.2001, passed by learned District Judge, Kapurthala, may kindly be set aside.

8. Notice was issued to the respondents; however, despite service, none appeared on their behalf, and accordingly, they were proceeded against *ex parte* vide order dated 23.04.2007.

9. I have heard learned counsel for the parties at length and have



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carefully perused the judgments and decrees passed by both the Courts below along with the evidence available on record.

10. The principal question that arises for consideration in the present appeal is whether the appellants/defendants have been able to establish their claim of ownership over the suit property by way of adverse possession so as to defeat the claim of the respondents/plaintiffs for recovery of possession.

11. At this stage, it would also be apposite to refer to Article 65 of the Limitation Act, 1963, which prescribes a period of 12 years for filing a suit for possession of immovable property based on title, commencing from the point when the possession of the defendants becomes adverse to the plaintiffs. However, it is equally well settled that the burden to prove that such possession has become adverse lies heavily upon the defendant who sets up such a plea. The starting point of limitation does not begin from the mere fact of possession, but from the date when such possession becomes hostile to the knowledge of the true owner.

12. In the present case, the appellants have failed to establish the specific point of time from which their possession became adverse. There is no cogent or convincing evidence to demonstrate open, continuous and hostile possession to the knowledge of the true owners for the statutory period. In the absence of such foundational pleadings and proof, the benefit of limitation under Article 65 cannot be extended to the appellants. Accordingly, the contention that the suit of the respondents/plaintiffs is barred by limitation deserves to be rejected.



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13. In this regard, reliance can also be placed upon the judgments passed by the Hon'ble Supreme Court of India in ***Kishundeo Rout and Others vs. Govind Rao and Others***, 2025(3) RCR (Civil) 777, as well as in ***Ravinder Kaur Grewal & others vs. Manjit Kaur & others***, 2019(4) RCR (Civil) 1, wherein it has been authoritatively held that a plea of adverse possession must be specifically pleaded with clear particulars as to the date from which possession became adverse and must be proved by cogent and convincing evidence showing open, hostile and continuous possession to the knowledge of the true owner for the statutory period. It has further been held that mere long or continuous possession, in the absence of proof of hostile animus, does not ripen into ownership, and the burden lies heavily upon the person asserting such a plea.

14. The learned First Appellate Court, on reappraisal of the pleadings and evidence on record, has rightly reversed the findings of the learned trial Court. It has been correctly observed that mere entries in the revenue record showing possession do not *ipso facto* establish hostile possession so as to constitute adverse possession. The defendants had not specified the exact date from which their possession allegedly became hostile, nor was there any evidence demonstrating an open and unequivocal denial of the plaintiffs' title. The plea of adverse possession was thus rightly held to be vague and devoid of material particulars.

15. It is evident from the record that the case of the appellants rests essentially upon long possession reflected in revenue entries. As per Ex.P3, i.e. the jamabandi for the year 1992–93, Dial Singh is recorded as owner to the extent of ½ share and Chanan Singh to the extent of the remaining ½



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share, whereas the sale deeds on record clearly reveal transfer of ownership in favour of Iqbal Singh and Jaswinder Singh. Further, the girdawari for the year 1994 (Ex.P4) reflects the possession of appellant–Parkash as ‘gair marussi’. Ex.P5, being the power of attorney executed by the respondents in favour of Bachan Singh, also stands admitted. However, these documents, at best, indicate possession and do not establish the essential ingredients of adverse possession. Such possession, in the absence of proof of hostility and animus against the true owners, does not mature into title.

16. The doctrine of adverse possession is not intended to legitimise unlawful occupation or to reward a trespasser merely because the true owner did not immediately assert his rights. Its purpose is to quiet long-settled possession only where it is shown to be open, continuous, exclusive and hostile to the knowledge of the true owner for the entire statutory period. In the present case, the appellants do not trace any lawful title and their claim rests solely on long possession reflected in revenue entries described as “unauthorised”. To permit such possession, without clear proof of hostile denial of the plaintiffs’ title and without establishing the precise commencement of adverse possession, to defeat a recorded title derived through registered sale deeds, would amount to converting a shield of limitation into a sword for dispossession. Such an approach would dilute the rigour of the doctrine and encourage encroachment rather than stability of property rights. The law of adverse possession is meant to protect settled, hostile possession proved in accordance with law, not to sanctify vague and unsupported claims of long occupation.



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17. I find that the verdict given by the learned First Appellate Court is based upon proper appreciation and correct interpretation of law. I do not see any reason to disagree with the learned First Appellate Court and take a different view and further to interfere with the impugned judgment and decree. Hence, the judgment and decree dated 27.08.2021 is upheld.

18. In view of the judgments passed by the *Hon'ble Supreme Court in Pankajakshi (Dead) through Legal Representatives and others vs. Chandrika and others (2016) 6 SCC 157, Randhir Kaur v. Prithvi Pal Singh and others (2019) 17 SCC 71 and Gurbachan Singh (dead) through LRs v. Gurcharan Singh (dead) through LRs and others*, questions of law are not required to be framed in second appeal before the Punjab and Haryana High Court whose jurisdiction is circumscribed by provisions of Section 41 of the Punjab Courts Act, 1918.

19. The appeal stands dismissed accordingly.

20. Since the main appeal stands dismissed, the miscellaneous application(s), if any, stand disposed of accordingly.

(AMARINDER SINGH GREWAL)
JUDGE

21.04.2026
Shubham

Whether speaking/reasoned:-	Yes/No
Whether Reportable:-	Yes/No