



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-3854-2004 (O&M)

Reserved on :-24.02.2026

Date of Pronouncement:-18.03.2026

Uploaded on:-18.03.2026

Tarsem Singh and Others

... Appellants

Versus

Sohan Singh (Deceased) through His LRs and Others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

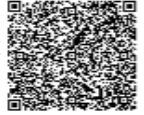
Mr. Sudeep Mahajan, Senior Advocate with
Ms. Saachi Mahajan, Advocate,
Mr. Shiv Charanjit, Advocate,
Mr. Samridham Goyal, Advocate and
Ms. Amrit Kaur, Advocate for the appellants.

Mr. Anhad Batta, Advocate for the respondents.

VIRINDER AGGARWAL, J.

1. The present Regular Second Appeal (hereinafter referred to as “RSA”) has been preferred against the judgment and decree dated 20.07.2004 passed by the learned Additional District Judge, Gurdaspur, whereby the appeal was allowed and the judgment and decree dated 29.03.2003 rendered by the learned Additional Civil Judge (Senior Division), Gurdaspur was set aside.

2. In a concise narration of facts, the respondents–plaintiffs instituted a suit for possession of the suit land measuring 23 kanals 03 marlas, fully detailed and described in the head-note of the plaint. It was pleaded that although the *Jamabandi* entries depicted the appellants–



defendants to be in possession as mortgagees, the said entries were erroneous. Taking advantage of these incorrect entries and in the absence of the respondents—plaintiffs, the appellants—defendants allegedly took forcible possession of the suit land approximately one year prior to the institution of the suit and thereafter refused to restore possession, thereby necessitating the filing of the present suit.

3. The appellants—defendants contested the suit by filing a joint written statement, asserting that they had been in continuous cultivating possession of the suit land since the year 1962–63. It was further pleaded that their possession had been open, continuous, uninterrupted, and hostile to the true owners, and that by virtue of such long and adverse possession they had perfected their title over the suit property.

4. Upon a comprehensive consideration of the pleadings of the parties, the documents placed on record, and the rival submissions advanced, the learned Trial Court framed the following issues for adjudication so as to facilitate a proper and effective determination of the controversy between the parties:—

1. *Whether plaintiffs are entitled to possession of the suit property?
OPP?*
2. *Whether defendants have become owners of the suit property by
way of adverse possession? OPD*
3. *Whether the suit is time barred? OPD*
4. *Whether the suit is not maintainable in view of preliminary
objection no. 2 taken in the written statement? OPD*
5. *Relief*

5. The parties were afforded adequate opportunity to lead evidence in support of their respective stands. Upon conclusion of the trial

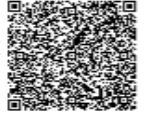


and after hearing learned counsel for the parties, the learned Additional Civil Judge (Senior Division), Gurdaspur dismissed the suit filed by the plaintiffs, holding that the possession of the appellants–defendants had ripened into ownership, as they were proved to have remained in possession of the suit property for a period exceeding twelve years.

5.1. Aggrieved thereby, the respondents–plaintiffs preferred an appeal, which came to be allowed by the learned Additional District Judge, Gurdaspur, who set aside the judgment and decree passed by the learned Trial Court and decreed the suit of the respondents–plaintiffs. The learned First Appellate Court, inter alia, held that the appellants–defendants had neither specifically pleaded nor proved the precise date on which they allegedly entered into possession, nor had they established that their possession was adverse to the true owners of the suit property.

6. Dissatisfied with the aforesaid judgment and decree, the present appeal has been preferred. The same was admitted for hearing on 04.04.2007.

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

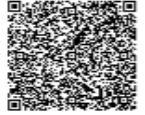


upon the law laid down in the aforesaid judgments, no question of law is required to be framed.

8. I have heard learned counsel for the parties at considerable length and have given my thoughtful and anxious consideration to their respective submissions, while also examining the pleadings of the parties, the evidence adduced on record, and the findings returned by the Courts below.

9. Learned counsel for the appellants contends that the learned First Appellate Court has misinterpreted the settled legal position and has also misread the pleadings as well as the evidence available on record. It is further argued that where possession is of considerable antiquity and has continued uninterruptedly for several decades, the exact date of commencement of adverse possession loses much of its significance. According to him, such specificity becomes material only in cases where the Court is required to ascertain whether the statutory period of twelve years has elapsed from a particular date. In the present case, however, the possession of the appellants–defendants is stated to have continued for decades and was specifically pleaded and proved to be adverse to the true owners. On this premise, it is contended that the findings recorded by the learned First Appellate Court are unsustainable and liable to be set aside.

10. Per contra, learned counsel for the respondents–plaintiffs submits that the findings recorded by the learned First Appellate Court do not suffer from any illegality or infirmity. It is argued that the plea of adverse possession is a weak and exceptional plea and the person asserting it must clearly establish the foundational facts, including the date and



nature of entry into possession, the character of such possession, whether it was open, continuous, and hostile to the true owner, whether the factum of possession was within the knowledge of the rightful owner, and the duration for which such possession continued. In support of his submissions, reliance has been placed upon the judgments of this Court in ***Lekh Ram and Others vs. Ami Lal (Deceased) Through His LRs, PHHC 90752*** and by Full Bench of this Court ***Ganda Singh and Others vs. Ram Narain Singh, ILR (1959) 1 P&H 385***, wherein it has been held that a plea of adverse possession is essentially founded upon facts which must be specifically pleaded and strictly proved. It is, therefore, prayed that the present appeal be dismissed.

11. The learned First Appellate Court has recorded its findings in paragraph No.15 of the impugned judgment, the relevant extract whereof reads as under:-

“XXXX

As already mentioned above the defendants have not mentioned the date on which they came into possession and nothing is also pleaded that they have been treating themselves as the owner. So their possession how-so-long cannot be construed to be adverse possession. In these circumstances I must hold that the defendants have failed to establish on record that they have become owners of the suit land by way of adverse possession.”

11.1. Insofar as the question relating to the commencement of adverse possession is concerned, the testimony of Sohan Singh, the sole



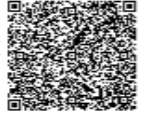
witness examined on behalf of the respondents–plaintiffs, assumes significance. In his cross-examination, he has admitted that the defendants have been in forcible possession of the suit property since the time of consolidation and that no share of produce or rent has ever been paid by them. The relevant extract from the cross-examination reads as under:-

“Defendants or ancestors of the defendants are cultivating forcibly the disputed field since the time of consolidation. They had not paid him any share or rent. So it has been admitted by Sohan Singh-plaintiff that defendants are in possession over suit land since the time of consolidation, so the averment in the plaint that defendants came into possession a year back has been falsified.

11.2. It is an admitted position that the defendants have remained in possession of the suit land for a considerable length of time. In the written statement, the defendants have specifically pleaded that they have been in cultivating possession of the suit property since the year 1962–63, thereby clearly indicating the period from which their possession commenced.

11.3. The entries in the revenue record also lend support to the case set up by the defendants. In the *Jamabandi* (Ex.D1) for the year 1967–68, the defendants are reflected to be in possession of the suit property as *“Basra Khata Malkan Ba Wajah Rahn Sabaka.”* It is, however, the consistent stand of both parties that the entries reflecting mortgage are erroneous. Consequently, in the revenue record the defendants are effectively shown to be in possession in the capacity of owners.

11.4. In these circumstances, the defendants have specifically pleaded the year from which their possession commenced. In a similar

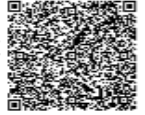


context, this Court in ***Ashok Kumar vs. Sham Wati, 2015(2) RCR (Civil) 137*** has held as under:-

“The phrase 'exact date' referred to in the aforesaid decision cannot be construed literally 'the date in a month'. It may also mean the year from which the adverse possession was claimed in a case where the possession had been with the claimant for a long number of years beyond the period of 12 years as prescribed under Article 65 of the Limitation Act.”

11.5. I find myself in agreement with the view taken by this Court, particularly in the facts and circumstances of the present case, wherein the appellants–defendants have specifically pleaded in paragraph No.2 of the written statement on merits that their possession over the suit land commenced in the year 1962–63, whereas the suit itself came to be instituted only in the year 1998. In such circumstances, it cannot be insisted that the exact date and month of the commencement of adverse possession must necessarily be pleaded, as a person cannot reasonably be expected to recall the precise date or month of an event that occurred several decades earlier. The appellants–defendants have sufficiently complied with the requirement of pleading by specifically stating the year from which their possession commenced, thereby clearly asserting the period from which they claim to be in adverse possession of the suit property.

12. Insofar as the aspect relating to the pleading that the appellants–defendants were holding possession of the suit land adversely to the true owners is concerned, the learned First Appellate Court has

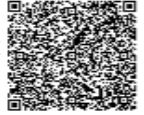


recorded a finding that neither such a plea exists nor is there any evidence in that regard. However, a perusal of paragraph No.2 of the written statement clearly reveals that the learned First Appellate Court has misread and misinterpreted the pleadings contained therein. The relevant extract of paragraph No.2 of the written statement reads as under:—

“It is submitted that plaintiffs and earlier to them their predecessor in interest, are coming in cultivating possession of suit land since 1962-63 as their possession of suit land is unauthorized, uninterpreted, peaceful and hostile to the knowledge of true owners. Thus the defendants have become the owners of the suit land by way of adverse possession and the plaintiffs are left with no right, title or interest with the suit land.”

13. A perusal of the aforesaid portion of the written statement clearly reveals that the defendants had specifically pleaded that they were in unauthorized, continuous, and hostile possession of the suit land to the knowledge of the true owners. This position also stands corroborated by the testimony of the plaintiff Sohan Singh, who, during the course of his cross-examination, admitted the factum of the defendants’ forcible possession, the relevant extract whereof has already been reproduced herein-above.

14. Moreover, in the *Jamabandis*, the possession of the defendants has been recorded as “*Basra Khata Malkan Ba Wajah Rahn Sabaka.*” It is the admitted case of both parties that the entry reflecting mortgage is erroneous. Consequently, it was well within the knowledge of the plaintiffs



that the defendants were in forcible possession of the suit land and were asserting ownership thereof. It has also come on record that the defendants were neither paying any rent nor sharing the produce with the plaintiffs, and that such possession had continued for several decades prior to the institution of the suit.

15. In these circumstances, the findings recorded by the learned First Appellate Court are clearly founded upon a misinterpretation of the settled principles of law as well as a misreading of the pleadings and evidence available on record. Accordingly, the present appeal preferred by the appellants–defendants deserves to be **allowed**. The judgment and decree passed by the learned First Appellate Court are hereby set aside, and those passed by the learned Trial Court are **restored**.

16. As a natural corollary to the final adjudication of the principal matter, all pending miscellaneous applications, if any, arising out of or connected with the present proceedings, shall stand disposed of accordingly. In view of the conclusions arrived at here-in-above, no separate orders are required to be passed in respect of such applications.

18.03.2026
Gaurav Sorot

(**VIRINDER AGGARWAL**)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No