



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

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**RSA-732-2004 (O&M)
Date of decision:10.03.2026**

MUKHTIARI AND OTHERS**...APPELLANTS****VERSUS****TURMUKHGIR CHELA LACHHMIGIR (DECEASED) THROUGH
LEGAL REPRESENTATIVES****...RESPONDENTS**

Present: Ms. Parul Saini, Advocate with
Mr. Pritam Singh Sani, Advocate
for appellant.

Mr. Piyush Aggarwal, Advocate
for respondent.

PARMOD GOYAL, J. (ORAL)

Appellants-plaintiffs are aggrieved by impugned judgment and decree dated 09.02.2001 passed by learned Civil Judge (Senior Division), Kurukshetra vide which suit preferred by appellants-plaintiffs for permanent injunction was dismissed as well as by dismissal of their appeal by learned First Appellate Court vide judgment and decree dated 03.01.2004 passed by learned Additional District Judge, Kurukshetra, Haryana.

2. In their suit for permanent injunction, appellants-plaintiffs had claimed to be owner in possession of bara marked ABCD measuring 100' X 80', duly described in plaint and prayed that respondent-defendant be restrained from interfering in their peaceful possession and from raising any

construction over the same. It was alleged that appellants-plaintiffs are using suit property for domestic purposes i.e. for storing agriculture produce and for parking their tractor-trolley. It was claimed that seven kikkar trees are standing over the suit land and a room has been constructed on east-southern corner along with Samadhi of their uncle named Parsa on north-western corner of suit property. It was claimed that respondent-defendant's *Dera Baragian* is situated on western side of suit property and respondent-defendant is its *Mohtim* which is interfering with the possession of appellants-plaintiffs. It was asserted that earlier also one *Sahjada* had tried to interfere with their possession and suit for permanent injunction was filed, which was decreed in their favour. Accordingly, decree for permanent injunction was sought.

4. Respondent-defendant filed written statement, took number of preliminary objections as regards to maintainability of the suit. It is asserted that suit is not maintainable as, boundaries were wrongly mentioned, appellants-plaintiffs have concealed documents relating to properties of *Abadi-deh* and measurement of property was also stated to be wrong. It is asserted that as per village map, *Dera* belonging to respondent-defendant is marked as property No.1 measuring 86' on eastern side, 93' on western side, 113' on southern side and 118' on northern side in field book prepared to enlist *abadi-deh* properties (Ex.D-5). It was claimed that *Samadhi* is of Baba Paltu Dass and not of Parsa as claimed by appellants-plaintiffs. It was asserted that appellants-plaintiffs have never been in possession of suit property and that respondent-defendant was not a party in previous proceeding. Respondent-defendant claimed to be owner in possession over suit property for over 50 years. It was asserted that appellants-plaintiffs

preferred present suit since they want to encroach upon suit land by raising construction to fulfill their illegal desires.

5. Following issues were framed from the pleadings of the parties:-

- I. Whether the plaintiff is owner in possession of the bara in dispute?OPP
- II. Whether the defendant wanted to encroach upon the suit property?OPP
- III. Whether the plaintiff has concealed the true and material facts from the Court, if so to what effect?OPD
- IV. Whether the plaintiff has no locus standi to file and maintain the present suit? OPD
- V. Whether the suit is not maintainable?OPD
- VI. Relief.

6. Appellants-plaintiffs by way of their pleadings as well as by evidence have sought ownership and possession over suit property to be open, hostile and without interference of any person, which clearly goes to show that appellants-plaintiffs are not claiming ownership on the basis of some title, rather they are claiming ownership on the basis of adverse possession. Perusal of evidence led by appellants-plaintiffs goes to show that they are claiming ownership of Sahjada over the suit property and has claimed that it was from Sahjada, they had taken ownership over the suit property and Sahjada had accepted their claim in previous suit titled as Ramji Lal versus Sahjada. It is asserted that suit property was sold to Sahjada vide sale deed dated 20.03.1974 (Ex.P6) and accordingly matter was compromised and judgment and decree dated 31.01.1977 (Ex.P1) was accordingly passed in favour of appellants-plaintiffs. Reliance has also been

placed upon judgment and decree dated 14.11.1980 (Ex.P9 and Ex.P10) passed in suit for partition titled as Arjun Singh versus Ramji Lal, where plaintiff had claimed himself to be owner of one share in plot measuring 100'X 80', which is stated to be ancestral property of parties.

7. It is worth noticing that jamabandi (Ex.P11) relied upon by appellants-plaintiffs goes against the case of appellants-plaintiffs as in jamabandi (Ex.P11), *Samadhi* is not mentioned to be of Parsa and therefore, the entire case is based upon previous litigation between appellants-plaintiffs and Sahjada on one part and with Arjun Singh on other part. However, in none of these litigations, respondent-defendant has been a party, therefore, the judgments cannot be held to be binding upon respondent-defendant. It is the claim of appellants-plaintiffs that suit property was actually owned by Sahjada who had purchased the same from Layak Ram vide sale deed dated 20.03.1974 (Ex.P6). Ex.P6 is an un-registered sale deed and refers to *bara measuring 100'X80'*. The assertions in sale deed is against entries in field book (Ex.D5) which shows the existence of property vested in respondent-defendant to be 86' on eastern side, 93' on western sides, 113' on southern side and 118' on northern side, which is totally different from claim made in sale deed. The field book is prior to sale deed and dimension mentioned in sale deed are contrary to said field book. It is further worth noticing that in field book (Ex.D5) even the property of Ramji Lal is duly mentioned as 82' on eastern side, 86' on western side, 76' on southern side and 75' on northern side, which is stated to be on western side of suit property shown to be property of defendant. No evidence to disprove entries in field book has been produced. It is not shown how Layak Ram became owner to sell it off vide unregistered sale deed, which is not admissible.

8. It is also worth noticing that as per own case of appellants-plaintiffs, the suit property is bounded by pucca road on northern side, boundary wall of appellants-plaintiffs on southern side, joint boundary wall of appellants-plaintiffs and Tejram on western side and Dera on eastern side. It is also clearly made out that a 'L' shaped road passes adjoining to the property of Dera and Ramji Lal as is clear from site plan (Ex.D6). These facts goes to show that appellant/Ramji Lal is trying to take benefit of fact that suit property is adjoining to his property and appellants-plaintiffs and are trying to encroach upon the same. In fact, appellants-plaintiffs have not been able to prove their ownership from the evidence led by them except for the claim that they are in open and hostile possession. However, they claim open and hostile possession against Layak Ram/Sahjada whom appellants consider to be owner of suit property. Once appellants are not acknowledging ownership of respondents they cannot claim open and hostile possession against respondents. Appellants-plaintiffs have claimed that Sehjada purchased the property from Layak Ram, however the sale deed in favour of Sehjada again is unregistered and cannot be taken into consideration. Rather respondent-defendant has succeeded in proving that respondent-defendant's *Dera* is in possession of suit property and is owner of suit property as duly recorded in the field book prepared at the time of consolidation when Abadi Deh was demarcated.

9. In these circumstances, I do not find any error in the conclusion drawn by both the Courts below. Findings of Courts below are affirmed and present appeal is dismissed.

10. I record my appreciation for able and fair assistance by both the young learned counsel for appellants-plaintiffs as well as respondent-

defendant, who were thorough with facts.

11. Pending application(s), if any, stand disposed of.

10.03.2026

Sunil Chander

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

(PARMOD GOYAL)
JUDGE