



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Reserved on : 13.03.2026
Pronounced on : 29.05.2026
Uploaded on : 29.05.2026

Whether only operative part of the judgment is pronounced? No
Whether full judgment is pronounced? Yes

1. RSA-2544-2011 (O&M)

Puran Appellant

versus

Smt. Kamla and others Respondents

2. RSA-2633-2011 (O&M)

Kamla and others Appellants

versus

Puran and others Respondents

3. RSA-3704-2011 (O&M)

Kamla and others Appellants

versus

Puran and others Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present :- Mr. Rajat Singh, Advocate and
Mr. Rohit Duggal, Advocate
for the applicant-appellant in RSA-2544-2011
and RSA-3704-2011 and
for the respondent in RSA-2633-2011.

Mr. R.A.Sheoran, Advocate
for the appellant in RSA-2633-2011 and
for the respondent in RSA-2544-2011
and RSA-3704-2011.



PANKAJ JAIN, J.

1. These three appeals arise out of a common suit.
2. Puran filed suit seeking decree of declaration to the effect that he is owner in possession of 16 kanal 0 marla, i.e. 320/1858 share wrongly mutated in the names of defendant No.1 and 2, even though they have no concern with the same. He claimed that decree dated 14.11.1984 passed in Civil Suit No. 671 passed by Sub-Judge 1st Class, Bhiwani and that dated 05.06.1985 passed in Civil Suit No.218 by Sub-Judge 1st Class, Bhiwani and the consequential mutations made in the revenue record, are illegal, null and void and are not binding on the rights of the plaintiff. He further challenged decree dated 24.05.1985 passed in Civil Suit No.359 passed by Sub-Judge 3rd Class, Bhiwani and that dated 23.08.1996 passed in Civil Suit No.126 by the Court of Additional Civil Judge Senior Division, Bhiwani and the sale deed bearing document No.372 dated 26.09.1996 executed in favour of defendant No.3 by Mange Ram, are illegal, null and void.
3. The admitted facts of the present case are that Anna son of Magha, common ancestor of plaintiff and defendant No.1 to 4 had two sons, i.e. Basti and Dallu. Both of them inherited 337 kanal 09 marlas of land from their father in equal share. Basti was unmarried and issueless. Basti suffered decree dated 19.05.1983 qua his 1/2 share of land in favour of his nephews namely Puran and Mange Ram sons of Dallu in Civil Suit bearing No.159 titled as 'Mange Ram vs. Basti'. Later on a Civil Suit was filed bearing No.671 titled as 'Basti vs. Mange Ram' and others. The same was decided by decree dated 14.11.1984. Under the said decree,



Mange Ram and Puran, i.e. plaintiff in the present suit suffered decree qua 16 kanals land each from their favour in favour of Basti

4. In Civil Suit No. 218 titled as ‘Mange Ram vs. Basti’, Basti suffered decree dated 05.06.1985 transferring 32 kanals of land that he received vide decree dated 14.11.1984 in favour of Mange Ram. Another Civil Suit bearing No.359 titled as ‘Mange Ram vs. Dallu’ was filed, whereby Dallu transferred his 1/2 share of land in favour of Mange Ram to the exclusion of Puran.

5. Another Civil Suit bearing No.126 titled as ‘Mange Ram vs. Dallu’ was filed which was decreed on 23.08.1996, whereby Dallu transferred 01 kanal of land in favour of Mange Ram.

6. Mange Ram executed sale deed dated 26.09.1996 in favour of defendant No.5.

7. Plaintiff has challenged the aforesaid consent decrees on the ground of fraud and misrepresentation by instituting present suit on 21.07.2001 after Dallu died on 30.04.2000.

8. Defendant No.1 to 4 are successors-in-interest of Mange Ram. In their joint written statement, defendants denied that the decree suffered by Basti and Dallu in favour of Mange Ram is result of fraud or misrepresentation. Defendants further claimed that the present suit is barred by limitation. Plaintiff was in the knowledge of the decrees suffered by Dallu and Basti in favour of Mange Ram. Plaintiff filed application under Order I Rule 10 seeking impleadment in Civil Suit No.126, whereby 01 kanal of land was transferred by Dallu in favour of Mange Ram. Application was dismissed. Puran and his wife sold their 1803/5291 share vide sale deed in favour of Nathu and others in the year



1995. Plaintiff is not in possession of any part of the suit land. Thus, the present suit without seeking any relief of possession is not maintainable.

9. Defendant No.5 in his written statement claimed to be a bona fide purchaser. It has been contended that vide sale deed dated 26.09.1996, Mange Ram transferred 01 kanal of land in his favour which was subject matter of Civil Suit No.126 decided on 23.08.1996. Plaintiff was in the knowledge of the said suit and participated in the proceedings. Defendant No.5 being purchaser for consideration without notice, sale deed in his favour cannot be set aside.

10. Suit filed by the plaintiff was put to trial by the Court of First Instance on the following issues:-

- “1. Whether the suit land is an ancestral property? OPP.*
- 2. Whether the plaintiff is owner in possession of the land total measuring 340/1858 share in the land described in the head note of the plaint? OPP.*
- 3. Whether Judgment the civil decree suit dated & 14.11.84 is null and void and not binding upon the rights of the plaintiff? OPP.*
- 4. Whether the Judgment & decree dated 5.6.85 in civil suit No.218 is also null and void and binding not upon the rights of the plaintiff? OPP.*
- 5. Whether the plaintiff is coming as co-sharer to the extent of 320/1858 share as per head note of the plaint? OPP.*
- 6. Whether the judgment and decree dated 24.5.85 in civil suit No.359 is also null and void and not binding upon the rights of the plaintiff? OPP.*
- 7. Whether the plaintiff is owner in possession of share in khasra No.385, 663/2 total measuring 1 kanal 4 marlas land? OPP.*
- 8. Whether the judgment and decree dated 23.8.1996 in civil suit No.162 is also null and void and not binding upon the plaintiff? OPP.*
- 9. Whether the sale deed No.372 dated 26.9.96 is null and void and without any right? OPP.*



10. Whether the suit of the plaintiff is time barred? OPD.

11. Whether the suit of the plaintiff is bad for mis-joinder and non-joinder of necessary parties? OPD.

12. Whether the plaintiff has no cause of action to file the present suit? OPD.

13. Whether the plaintiff has not come to the court with clean hands and suppressed the material facts? OPD.

14. Whether the suit of the plaintiff is barred by resjudicata? OPD.

15. Relief.”

11. Trial Court partly decreed the suit filed by the plaintiff qua decree dated 24.05.1985 suffered by Dallu in favour of Mange Ram in Civil Suit No.359 titled as ‘Mange Ram vs. Dallu’ and granted him declaration to the effect that he is owner in possession of 16 kanal 0 marla of land, out of share of defendant No.1 and 2, i.e. 320/1858 share of total land measuring 92 kanal 08 marlas.

12. Cross appeals were filed by both the parties. Defendant No.1 to 4, i.e. successors-in-interest of Mange Ram filed Civil Appeal No.21 of 2007. Puran filed Civil Appeal No.147 of 2007. Lower Appellate Court partly accepted the appeal preferred by successor-in-interest of Mange Ram holding that they are entitled for 2/3 share of the land which is subject matter of Civil Suit No.359 dated 24.05.1985 Ex.P-8.

13. Puran has preferred RSA No.2544 of 2011 and RSA No. 3704 of 2011. Kamla Devi and another, i.e. defendant No.1 to 4 have preferred RSA No.2633 of 2011.

14. I have heard counsel for the parties and have carefully gone through the records of the case.

15. Basti and Dallu succeeded Anna to the extent of 1/2 share in total land measuring 337 kanal 09 marlas. Admittedly, Basti was



unmarried. Dallu had two sons, namely, Puran and Mange Ram. Whereas estate in the hands of Dallu is admittedly ancestral, estate in the hands of Basti attained character of self-acquired property. Plaintiff challenged decree dated 19.05.1983, that dated 14.11.1984, that dated 05.06.1985 not decree dated 23.08.1996 on the ground of fraud. Apart from bald assertions, he failed to lead any cogent evidence. In view thereof, this Court finds that the findings recorded by the Courts below on issue No.3 and 4 need to be affirmed.

16. It is an admitted case of the parties that the land in hands of Dallu was ancestral land. Thus, the Courts below rightly held that Dallu had no authority to suffer consent decree in favour of one son, i.e. Mange Ram to the exclusion of other son, i.e. plaintiff-Puran. However, the Lower Appellate Court erred in maintaining the decree to the extent of 2/3 share. Perusal of Ex.P8 would reveal that the same is based upon family settlement. The subject matter of Civil Suit No.359 decided on 24.05.1985 being ancestral in nature could not have been subjected to family settlement as plaintiff has a right in the same by birth. Accordingly, the finding recorded by the Lower Appellate Court modifying the findings recorded by the Court of First Instance on issue No. 5 and 6 cannot be sustained. The same are set aside. Findings recorded by the Court of First Instance are restored.

17. In view of above, this Court finds that the judgment and decree passed by the Lower Appellate Court needs to be set aside and judgment and decree passed by the Trial Court needs to be restored.



18. In view of above, the present appeals are disposed off partly accepting the appeals preferred by Puran Singh. It is thus ordered as under:

- (i) Appeals preferred by Puran Singh, i.e. RSA No. 2544 of 2011 and RSA No.3704 of 2011 is partly accepted.
- (ii) Appeal preferred by Kamla Devi and others, i.e. RSA No.2633 of 2011 is dismissed.

19. Judgment decree passed by the First Appellate Court is set aside. Decree judgment decree passed by the Court of First instance is restored.

20. Ordered accordingly.

21. Photocopy of this order be placed on the files of other connected cases.

(PANKAJ JAIN)
JUDGE

29.05.2026
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	/No