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

RSA-1910-2015 (O&M)

Date of decision : 05.05.2026

INDERJIT SINGH AND ORS

....Appellants

Versus

HARMAHINDER SINGH THROUGH HIS LRS. JAGIR KAUR AND ORS
...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Gurmeet Singh Saini, Advocate
for the appellant.

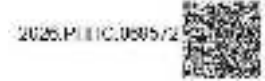
Ms. Aeshna Jain, Advocate (Amicus)
for the respondents.

PANKAJ JAIN, J. (ORAL)

Defendants No.1 & 9 to 12 are in second appeal.

2. For convenience, the parties hereinafter are referred to as by their original position before the Court of the First Instance, i.e., the appellants as 'defendants No.1 & 9 to 12', respondent No.1 as 'plaintiff', respondents No.2 to 7 as 'defendants No.2 to 7', respondents No.8 to 15 as 'defendants No.14 to 21' and respondent No.16 as 'defendant No.8'.

3. Plaintiff filed suit seeking decree of declaration to the effect that the decree dated 19.12.1988 suffered by Bakhshish Singh in favour of the defendants was illegal, null and void. The property in the hands of



Bakhshish Singh was ancestral in nature. Plaintiff being son of late Bakhshish Singh had a right in the property by birth. Bakhshish had no right to suffer decree qua ancestral property. Thus decree dated 19.12.1988 needs to be declared as illegal, null and void.

4. Suit was contested by the defendants disputing the relationship between the plaintiff and Bakhshish Singh.

5. Suit filed by the plaintiff was put to trial by the Court of the First Instance framing following Issues :

1. Whether the plaintiff is entitled to the declaration as prayed for? OPP
2. Whether the plaintiff is entitled to the relief of possession as owner of the property in dispute? OPP
3. Whether the plaintiff is not son of deceased Bakhshish Singh and as such he has no cause of action to file the present suit? OPD
4. Whether the suit is within the period of limitation? OPP
5. Whether the suit is not properly valued for the purposes of court fee and jurisdiction? OPD
6. Relief.

6. On Issue No.3, both the Courts below concurrently found that the plaintiff successfully proved his relationship with late Bakhshish Singh. Holding that Bakhshish Singh had no right to suffer consent decree in favour of the defendants, the Courts below decreed the suit filed by the plaintiff setting aside the decree passed in Civil Suit No. 358-1 of 26.11.1988, dated 19.12.1988.



7. Learned counsel for the appellants has assailed the findings recorded by the Courts below. He submits that the Court of the First Instance erred in fixing onus *qua* Issue No.3 upon the defendants, whereas it was for plaintiff to prove that he is son of Late Bakhshish Singh. He further submits that the decree which has been set aside by the Courts below was not even brought on record.

8. Per contra, Ld. Amicus would submit that the plaintiff led positive evidence to prove his relationship with Bakhshish Singh. His educational testimonials are on record. The defendants in their written statement pleaded that Bakhshish Singh fathered a son by the name of Kaka Singh. Birth certificate of Kaka Singh was brought on record as Exhibit D-1. Defendants however failed to connect the said birth certificate with the plaintiff. The date of birth of the plaintiff is different from that of Kaka Singh. Both the Courts below analysed the entire evidence to conclude that the plaintiff proved his parentage.

8.1. Ld. Amicus however is not in position to dispute that the decree impugned in the present suit and annulled by the Courts below was not even brought on record by the plaintiff.

9. In view of the conceded position that the decree impugned in the suit was not even brought on record, this Court finds that the Courts below erred in setting aside the decree without even looking at it as the same was never made part of the record.



10. In view thereof, the present appeal is allowed. Judgment and decree passed by the Courts below are hereby set aside. Suit filed by the plaintiff is ordered to be dismissed.
11. Pending application, if any, shall also stand disposed off.

May 05, 2026
Dpr

(Pankaj Jain)
Judge

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