



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

116

**RSA-1743-2017 (O&M)**

**Date of decision : 06.05.2026**

**Bhim Singh**

**..... Appellant**

**versus**

**State of Haryana and others**

**..... Respondents**

**CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. S.K. Verma, Advocate  
for the appellant.

Mr. Naveen Singh Panwar, DAG, Haryana  
for respondent No.1.

Mr. S.P. Chahar, Advocate and  
Ms. Savita Chahar, Advocate  
for respondents No.2 and 3.

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**PANKAJ JAIN, J. (Oral)**

1. Plaintiff is in second appeal.
2. Plaintiff filed suit for declaration with the consequential relief of permanent injunction. As per plaintiff, he is owner in possession of one house comprised in Khewat No.166 and 167 situated in Abadi Deh of Village and Post Office Khairanti, Tehsil Meham, District Rohtak depicted by boundaries in the plaint. The property was owned by Jas Ram. The property thereafter came under the title of grandfather of the plaintiff. After death of his grandfather, the same travelled to father of the plaintiff and thereafter to him. As per plaintiff, there was a dispute between the present plaintiff and his cousin namely Sultan and Rohtas with respect to open chowk and house.



2.1 Plaintiff filed suit bearing No.181 of 1987 seeking declaration qua land in dispute. The matter was compromised through Panchayat. The suit was dismissed as withdrawn vide order dated 01.12.1987. The said Sultan and Rohtas sold their share in the property in dispute to the plaintiff. Thereafter plaintiff has become owner in possession of the open space including house adjacent to the same. He has constructed washroom, khor and door gate thereupon. Defendants in collusion are threatening to dispossess him and are disputing his ownership. Plaintiff by way of the present suit seeks decree of permanent injunction.

3. Suit was contested by defendants. As per defendants, plaintiff has illegally constructed chabutra in front of his house in the open chowk and is in illegal and unauthorized possession of the same.

4. The suit filed by the plaintiff was put to trial by the Court of First Instance framing following issues:-

*“1. Whether the plaintiff is entitled to a decree for declaration with consequential relief of permanent injunction as prayed for? OPP*

*2. Whether the suit is not maintainable in the present form? OPD*

*3. Whether the suit is bad for want of legal notice required under Section 80 CPC and 205 of Haryana Panchayati Raj Act?OPD.*

*4. Whether plaintiff has no cause of action and locus-standi to file the present suit?OPD*

*5. Whether the suit of the plaintiff is false and frivolous and liable to be dismissed?OPD*

*6. Whether the plaintiff is estopped by his own act and conduct from filing the present suit?OPD*

*7. Whether the plaintiff has not come to the Court with clean hands and suppressed the material facts?OPD*

*8. Relief.”*



5. The Court of First Instance after analysing the entire evidence came to the conclusion that the order Ex.P4 passed in Civil Suit bearing No.181 of 1987 does not confer title of property in dispute upon the plaintiff. Apart from oral testimony, plaintiff having failed to lead any evidence to prove his ownership, cannot be granted decree of declaration.

6. Unsuccessful plaintiff preferred appeal. The Lower Appellate Court has affirmed the findings recorded by the Court of First Instance.

7. Counsel for the plaintiff-appellant has assailed the finding recorded by the Court below. He submits that the possession of the plaintiff upon the disputed portion is admitted. In view thereof, in terms of Section 110 of the Evidence Act, 1872 onus shifted upon the defendants to dislodge the title of the plaintiff. In order to hammerforth his contention, he relies upon ratio of law laid by Supreme Court in ***“The State of Punjab and Ors. vs. Bhagwantpal Singh alias Bhagwant Singh (Deceased)”*** reported as ***2024 (7) SCR 2434***.

8. *Per contra*, counsel for the respondent refers to para 10 of the judgment passed by the Lower Appellate Court to submit that the claim of the plaintiff has been found to be false. The same suffers from inherent contradictions. The Court has compared to site plan Ex. P2 and Ex.P9 to conclude that the plaintiff himself admits that there was no construction on the portion shown with red colour in the site plan Ex.P9 and the same having been constructed later on, it would not confer any title upon the plaintiff.



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

10. In order to appreciate the contention raised by counsel for the appellant, it will be apt to peruse Section 110 of the 1872 Act. The same reads as under:-

**“110. Burden of proof as to ownership.**—When the question is whether any person is owner of anything of which he is shown to be in possession, the burden of proving that he is not the owner is on the person who affirms that he is not the owner.”

11. The same was interpreted by Supreme Court in the case of ***Bhagwantpal Singh (supra)*** observing as under:-

“30. It is settled law that in a suit for possession, the burden of proof lies on the plaintiff. As per Section 110 of the Evidence Act, 1872, the burden of proof as to ownership of a property lies on the person challenging the ownership of the person in possession. Section 110 of Evidence Act is produced as follows:

“110.Burden of proof as to ownership- When the question is whether any person is owner of anything of which he is shown to be in possession, the burden of proving that he is not the owner is on the person who affirms that he is not the owner.”

31. This Court had summarized the provision in ***Chuharmal v. CIT*** (supra) as follows:

“6. ...Section 110 of the Evidence Act is material in this respect and the High Court relied on the same which stipulates that when the question is whether any person is owner of anything of which he is shown to be in possession, the onus of proving that he is not the owner, is on the person who affirms that he is not the owner. In other words, it follows from well settled principle of law that normally, unless contrary is established, title always follows possession.”

12. It is settled proposition that the burden of proof as to



ownership of property lies upon the person challenging the ownership of person in possession as per the mandate of Section 110 of the Act.

13. However, the case of the plaintiff has fallen under its own weight. There is no dispute with respect to ownership over Khewat No. 166 and 167. The only issue that falls for consideration of this Court is:

*(i) whether the open chowk in front of the house constructed by the plaintiff in Khewat No.166 and 167 forms part of Khewat No.166 and 167 or not?*

14. Admittedly, there was no evidence led by the plaintiff to prove that the open chowk is part of Khewat No. 166 and 167. That apart, it has come on record that ABCD in the site plan Ex.P2 does not tally with ABCD as shown in the site plan Ex.P9. In the earlier site plan, the length of house was shown as 60 feet. In the later site plan, the same was shown as 72 feet. It shows that the possession of the plaintiff beyond Khewat No.166 and 167 is unauthorized. He cannot take refuge under Section 110 of the Act to claim title of the open land adjoining his house.

15. Pure finding of fact has been recorded by the Courts below which needs no interference.

16. Finding no merits in the present appeal, the same is ordered to be dismissed.

17. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

**(PANKAJ JAIN)**  
**JUDGE**

**06.05.2026**

Dinesh

Whether speaking/reasoned :  
Whether Reportable :

Yes  
No