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

1.

RSA-3966-2023 (O&M)**Date of Decision : 29.01.2026**

Jagga Singh & Ors

... Appellant(s)

Versus

Gurnaib Singh

... Respondent(s)

2.

RSA-4006-2023 (O&M)

Jagga Singh

... Appellant(s)

Versus

Gurnaib Singh

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ashok Kumar Khunger, Advocate
for the appellants in both the appeals.

ALKA SARIN, J. (Oral)

1. This order shall dispose off the two above-captioned appeals being **RSA-3966-2023** and **RSA-4006-2023** filed by the defendant-appellants challenging the judgment and decree dated 14.09.2023 passed by the First Appellate Court and the judgment and decree dated 08.02.2019 passed by the Trial Court.

2. Briefly, the facts relevant to the present *lis* are that the plaintiff-respondent filed a suit for permanent injunction for restraining the defendant-appellants from interfering, dispossessing and demolishing the wall of the house shown as Mark ABCD in the site plan. It was averred that he is owner in possession of the house/plot in question. Earlier he was owner in possession of 19 marlas of land, but later on he gave about 06 marlas of land to the

defendant-appellant No.1 – Jagga Singh, who was working as seeri for him for the purpose of his residence. One wall at point CD as shown in the site plan was also constructed at the spot in the year 2005 to make a division of said land in possession of the defendant-appellant No.1 and remaining 13 marlas of land remained with the plaintiff-respondent. In the month of November 2017 the defendant-appellants started disputing the common wall existing at the spot and were trying to demolish the same. Hence, the present suit.

3. On notice the defendant-appellants contested the suit on the ground that the defendant-appellant No.1 was working as seeri with Mohinder Singh and Bohar Singh in the year 2005. The defendant-appellant No.4 – Ranjit Kaur – was also doing their household work. Later on, the defendant-appellant No.1 purchased 18 marlas of the land from Bohar Singh and Mohinder Singh and entries in this regard were also made in the *bahi* which is in possession of the plaintiff-respondent. It was further averred that the defendant-appellant No.1 constructed his residential house in 06 marlas of land and the remaining 12 marlas of land was kept vacant and electricity connection was also installed in his name. However, now the plaintiff-respondent has forcibly constructed a wall and had separated 12 marlas of vacant land. Even on 15.11.2017 the plaintiff-respondent tried to take possession of the residential house of the defendant-appellant No.1 regarding which an FIR No.50 dated 25.06.2018 was also registered. Alongwith the written statement, the defendant-appellant No.1 herein also filed a counter-claim for declaration to the effect that he was owner of 18 marlas of the land and for mandatory injunction directing the plaintiff-respondent to remove the wall from the spot and for permanent injunction.

4. Replication was filed by the plaintiff-respondent and a reply was also filed to the counter-claim. On the basis of the pleadings of the parties, the following issues were framed :

1. Whether the plaintiff is entitled to relief of permanent injunction as prayed for ? OPP
2. Whether suit of the plaintiff is not maintainable ? OPD
3. Whether the counter claimant is entitled to relief of declaration as prayed for ? OPCC
4. Whether the counter claimant is entitled to relief of possession as prayed for ? OPCC
5. Whether the counter claimant is entitled to relief of mandatory injunction as prayed for ? OPCC
6. Whether the counter claimant is entitled to relief of permanent injunction as prayed for ? OPCC
7. Whether the counter claim is not maintainable ? OPP
8. Whether the counter claim is under valued ? OPP
9. Relief.

5. The Trial Court vide judgment and decree dated 08.02.2019 decreed the suit filed by the plaintiff-respondent restraining the defendant-appellants from interfering and dispossessing the plaintiff-respondent from his house and from demolishing the wall as fully detailed in the plaint. The counter-claim filed by the defendant-appellant No.1 was dismissed. Aggrieved by the same, two appeals being **CA-35-2019** and **CA-36-2019** were preferred by the defendant-appellants before the First Appellate Court

challenging the judgment and decree dated 08.02.2019 passed in favour of the plaintiff-respondent and dismissal of the counter-claim. Vide judgment and decree dated 14.09.2023 the appeal being **CA-35-2019** was dismissed to the extent that suit of the plaintiff-respondent was decreed. However, the appeal being **CA-36-2019** was accepted partly allowing the counter-claim restraining the plaintiff-respondent from interfering in 06 marlas of land, where the residential house of the defendant-appellant No.1 was constructed. Aggrieved by the same, two regular second appeals being **RSA-3966-2023** and **RSA-4006-2023** have been preferred.

6. Learned counsel for the defendant-appellants would contend that the defendant-appellant No.1 had purchased 18 marlas of land from Mohinder Singh and Bohar Singh and in this regard entries were also made in the *bahi*. Learned counsel would further contend that there is no dispute qua 06 marlas of land where the defendant-appellant No.1 had constructed a house and is residing alongwith his family. The dispute is only qua the remaining 12 marlas of land.

7. I have heard the learned counsel for the defendant-appellants.

8. In the present case, the case as set up by the plaintiff-respondent was that 06 marlas of land had been given to the defendant-appellant No.1 as he was working as seeri for the plaintiff-respondent for the purposes of his residence. It is an admitted fact that the defendant-appellant No.1 had constructed a house on 06 marlas of land and is residing there with his family.

9. The argument of the learned counsel for the defendant-appellants that a total of 18 marlas of land was purchased by the defendant-appellant No.1 herein from the father of the plaintiff-respondent is *sans* any evidence. Both the Courts concurrently found that not an iota of evidence was led by the

defendant-appellants to prove that the defendant-appellant No.1 had purchased 18 marlas of land from the father of the plaintiff-respondent. The only reliance by the defendant-appellants was on some entries in the *bahi* on the basis of a writing qua which also he was unable to state as to whether the writing was witnessed by any person. In any case, ownership of immovable property the value of which is more than ₹100/- cannot be transferred without a registered document. In the absence of any registered document having been pleaded or proved on record, the argument of the learned counsel that the defendant-appellant No.1 had become owner of 12 marlas of land cannot be accepted.

10. In view of the above, no fault can be found with the impugned judgments and decrees. No question of law, much less any substantial question of law, arises in the present case. The appeals being devoid of any merit are accordingly dismissed. Pending applications, if any, also stand disposed off.

29.01.2026
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO