





### Main case

1 Appellant-plaintiff is in second appeal. For convenience, parties hereinafter are referred to by their original position in the suit, i.e. the appellant as plaintiff and respondents No.1 to 4 as defendants No.1, 2, 3 and 5.

2 Plaintiff filed suit seeking decree of declaration to the effect that he is owner in possession of the suit land measuring 6 kanal 4 marlas as detailed out in the head note of the plaint. He further sought a decree of permanent injunction restraining the defendants from alienating or creating any encumbrance over the suit property.

3 As per the case of the plaintiff, one Didar Singh was co-sharer in joint land measuring 97 Karnal 18 Marlas . He executed sale deed dated 18.08.1987 in favour of plaintiff for a valuable consideration of Rs.20,000/-. Possession of the suit land was handed over to the plaintiff at the time of execution of the sale deed. The plaintiff continues to be owner in possession of same since then. However, mutation *qua* the suit property could not be sanctioned and the name of Didar Singh continued to be reflected in the revenue records. The suit land was partitioned. Share of the plaintiff was wrongly mutated in the name of the defendants, i.e. legal heirs of Didar Singh. Plaintiff thus sought decree of declaration with the consequential relief of permanent injunction.

4 Suit was contested by the defendants. Joint ownership of Didar Singh *qua* suit land was admitted. However, sale deed propounded by the plaintiff claimed to have been executed by Didar Singh was denied.



Defendants claimed that the sale deed dated 18.08.1987 propounded by the plaintiff was result of fraud.

5 The Court of the First Instance framed following issues :-

*“(1) Whether the plaintiff is owner in possession of the suit land? OPP.*

*(2) Whether the plaintiff is entitled for declaration as prayed for? OPP.*

*(3) Whether the plaintiff is entitled for permanent injunction as prayed for? OPP.*

*(4) Whether the suit of the plaintiff is not maintainable? OPD.*

*(5) Whether the plaintiff has no locus standi to file the present suit? OPD*

*(6) Whether the suit is barred by time? OPD.*

*(7) Relief.”*

6 While recording findings on issues No.1, 2 & 3 the Court of the First Instance held that there was merely a stray entry *qua* possession of the plaintiff in the revenue records which was not sufficient to prove his possession over the suit property. Trial Court accordingly answered issues No.1, 2 & 3 against the plaintiff further holding that the plaintiff failed to prove the execution of the sale deed.

7 While deciding issue No.6, the Court of First Instance held that the suit was barred by limitation, as the plaintiff failed to explain as to how the suit instituted in 2004 can be held to be within the prescribed period of limitation once plaintiff admits that he approached revenue authorities for mutation of suit property in the year 1987.

8 Unsuccessful plaintiff preferred appeal. The Lower Appellate Court reversed the findings recorded by the Trial Court on Issues No. 1, 2,



and 3, but maintained the findings recorded by the Court of First Instance on Issue No. 6, observing as under :-

*“18. I find no force in the contention raised by the learned counsel for the appellant-plaintiff regarding limitation because the appellant-plaintiff regarding limitation because the appellant-plaintiff Harjit Singh who has appeared in the witness box as PW2 has admitted in his cross-examination that he got the sale deed executed in the year 1987 and he entered the mutation for sale deed in dispute in the year 1987. He further deposed in his cross examination that he approached the Patwari for mutation as stated above in the year 1987. In view of the admission of the appellant-plaintiff it is more clear that the appellant-plaintiff has very much knowledge to got the mutation sanctioned on the basis of the sale deed Ex. P1 but the appellant-plaintiff has failed to got the mutation sanctioned. As such no entry has been made regarding sale deed in the revenue record earlier. Since the appellant-plaintiff had filed a suit after 15 years from the date of execution of the sale deed, therefore, the suit filed by the appellant-plaintiff is clearly time barred. As such the findings of the learned lower court on issue no.6 are affirmed.”*

9 Counsel for the plaintiff has assailed the findings recorded by the Lower Appellate Court. He submits that once the plaintiff has been held to be co-sharer in joint possession of the suit land, his suit ought not have been dismissed holding the same to be barred by limitation. In order to hammer forth his contentions he relies upon *Ibrahim @ Dharam Vir Vs. Smt. Sharifan @ Shanti, 1979 RLR 597, Gurcharan Ram Vs. Tejwant Singh (died) through LRs & anr., 2008 (4) RCR (Civil) 266, Mohinder Singh and others versus Shangara Singh and another, 2007(5) RCR (Civil) 388 and Manti & others Vs. Sarwati Devi & ors., 2003 (4) RCR (Civil) 677.*



10 *Per contra* counsel for the defendants submits that the Courts below have rightly held the suit to be barred by time. Plaintiff admitted that he approached Patwari for mutation of sale deed in the year 1987 yet the present suit was instituted only in 2004.

11 I have heard learned counsel for the parties and have gone through the records of the case.

12 The Lower Appellate Court has reversed the finding on issues No.1, 2 and 3, holding that the execution of the sale deed by Didar Singh in favour of plaintiff stands proved and that he has been held to be in joint possession.

13 Keeping in view the settled proposition of law that mutation entries are merely for fiscal purpose and do not confer any right, title or interest, this Court finds that the same neither furnish a cause of action to file a suit for declaration *nor* affect the rights of a co-sharer in joint possession. A plaintiff in joint possession is not required to file a suit merely on the basis of wrong mutation. He is required to file a suit only when his rights or title come under a cloud. The aforesaid view of this Court is supported by Division Bench of this Court in *Ibrahim @ Dharam Vir's case (supra)* wherein Division Bench observed as under :-

*8. It may be observed at the outset that the word 'first' occurring in article 58 of the Act is of no significance at all for deciding the issue of limitation so far as the facts of the case in hand are concerned as the main point that requires determination is whether mere entry of mutation in the name of the defendant would furnish a cause of action to the plaintiff to file a suit for declaration or not. There is no dispute that mutation was sanctioned in favour of the defendant after the death of Akbar and in case such an entry furnishes a cause of action,*



*then certainly the suit would be barred by limitation. Even Mr. Aggarwal very fairly conceded this proposition. But what was argued by him was that mere entry of mutation did not furnish any cause of action and in support of his contention he relied on a Division Bench judgment of this Court in Niamat Singh v. Darbari Singh etc., 1956 P.L.R. 461. In our view, the contention of the learned counsel has considerable force. The plaintiff continued to be in possession of the entire property even after the sanction of the mutations in the name of the defendant after the death of her father Akbar or her mother Smt. Nanhi or her uncle Bhiku. The defendant was never given any share in the rent, nor was she given any produce out of the land of her share. In this situation, no cloud was cast on the title of the plaintiff by mere entry of the mutation in the name of the defendant. Further, there is no proof on the record to show that before April, 1969, by any act or assertion of the defendant the right of the plaintiff was ever actually jeopardised. The defendant is occupying a house in the village. The assertion of the plaintiff is that it was given by him to her out of compassion, while the plea of the defendant is that she occupied it as of right. Be that as it may, the fact remains that so far as the agricultural land is concerned, the defendant after the sanction of the mutations never asserted her right to her share in the land in dispute, nor did she ever get any rent or produce and that it was in the year 1969 that she tried to assert her right and interfere with the possession of the plaintiff. In this situation, mere entry of a mutation in the name of the defendant would not furnish any cause of action to the plaintiff. This view of ours finds full support from the judgment of the Division Bench in Niamat Singh's case. Thus, we do not agree with the learned Single Judge that the cause of action arose when the mutation was entered in the name of the defendant and consequently, reverse the finding on issue No. 4 and hold that the suit filed by the plaintiff within limitation.*



14           The same view was followed by a coordinate bench in *Mohinder Singh's case (supra)*, observing as under:-

*“9. It is well settled that entries in the revenue record does not by title give rise to a cause of action. Reference may be made to Ibrahim v. Smt. Sharifan, AIR 1980 Punjab & Haryana 25 and Balwant Singh v. Khushal Singh and another, 2004(1) RCR (Civil) 806 : (2003-3)135 Punjab Law Reporter 439. The Division Bench in Ibrahim's case (supra) has held that entry in the revenue record by itself does not provide any cause of action. The cause of action arises only when there is any threat to the title of the suitor.*

*10. Keeping in view the said judgments, it cannot be said that mere entry in the revenue record gives rise to cause of action to the plaintiff. It is also well settled that the revenue records are not documents of title. Such, records are maintained for the purposes of land revenue alone. Therefore, mere entry of inheritance in favour of Moti in the revenue record will not confer title of the suit land in favour of Moti as he has been proved to be adopted by Jawahar in the year 1891. In the absence of proof of custom as prevalent, the heirs of Moti cannot succeed to the estate of Wazira.”*

15           In view of afore-settled proposition of law this court finds that the Lower Appellate Court erred in law in answering issue No.6 against the plaintiff after having answered issues No.1, 2 & 3 in his favour.

16           In view of above the judgment and decree passed by Courts below cannot be sustained and are hereby set aside. The suit filed by the plaintiff is ordered to be allowed.

17           Needless to observe, any transfer/alienation during the pendency of the present proceedings shall be governed by the principle of *lis pendens*.

18           Appeal stands allowed.



2026:PHHC:045773



2026:PHHC:045773

RSA-1737-2013 (O&M)

19 Pending miscellaneous application, if any also stands disposed off.

**23.03.2026**  
*Pooja Sharma-I*

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

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No