2026:PHHC:104299

RSA-88-1994 (O&M)

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

103 **RSA-88-1994 (O&M)**
DATE OF DECISION: 28.07.2026

PUNJAB STATE AND ANR

....APPELLANTS

VERSUS

BAHADUR SINGH (DECEASED) THROUGH LRs & ANR

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

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Present : Ms. Niharik Sharma, AAG Punjab for the appellants.

Mr. Amandeep Singh Manaise, Advocate
for respondents.

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YASHVIR SINGH RATHOR, J. (ORAL)

1. This Regular Second Appeal has been instituted by the appellants (**hereinafter referred to as 'defendants'**) against the judgment and decree dated 03.06.1993 passed by the Court of learned Additional District Judge, Gurdaspur in Civil Appeal No.116/162/1992/93 vide which appeal filed by the defendants against the judgment and decree dated 26.02.1992 passed by Senior Sub Judge, Gurdaspur in Civil Suit No.3 of 1988 has been dismissed and the judgment and decree dated 26.02.1992 passed by the Trial Court has been upheld vide which suit filed by the respondents (**hereinafter referred to as 'plaintiffs'**) was decreed.

2. Case of plaintiffs is that they are owners in possession of land measuring 17 kanal 11 marla comprising Rectangle No.25, Killa No.15 (8-0), 16/1 (1-11), Rectangle No.26 Killa No.11(8-0) situated

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within the revenue estate of Village Bhikariwal, Hadbast No.151, Tehsil and District Gurdaspur as per jamabandi for the year 1982-83 (**hereinafter referred to as the 'suit property'**). It is submitted that the fathers of plaintiffs, namely, Inder Singh and Surain Singh had purchased the suit property along with some other land from competent authority and sale certificates were duly issued in their favour and thereafter, they are in cultivating possession of the suit property for the last more than 50 years. Now, defendants started threatening to allot the land to some other person and to alienate the same, which necessitated the present suit. By way of present suit, plaintiffs sought declaration to the effect that they are owners in possession of the suit property and a consequential decree for permanent injunction was sought restraining defendants from allotting and alienating the suit property to any other person.

3. Defendants in their written statement have refuted the contents of the plaint and alleged that the suit property is still being shown as evacuee property in the revenue record and the plaintiffs are not the owners of the same. Rather, plaintiffs are in illegal occupation of the suit property and they are liable to be dispossessed in due course of law. It is further submitted that Civil Court has no jurisdiction to try the suit which is also bad for want of notice under Section 80 of C.P.C. and dismissal of the suit has been sought.

4. From the pleadings of the parties, following issues were framed:-

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"1. Whether the Civil Court has no jurisdiction to try this suit? OPD

2. Whether notice u/S 80 C.P.C. has been served upon the defendants? if not its effect? OPD

3. Whether the plaintiffs are owners in possession of the suit land and are entitled to the decree for declaration and injunction prayed for? OPP

4. Relief."

5. In support of their case, one of the plaintiffs, namely, Bahadur Singh appeared as PW1 and plaintiffs have also examined PW2 Deaa Singh and PW3 Mehnga Singh. However, no evidence was led by defendants.

6. After hearing the parties and on going through the record, learned Trial Court came to the conclusion that Civil Court has got the jurisdiction to try the suit of the present nature and the suit is not bad for want of notice under Section 80 C.P.C. as plaintiffs had moved an application under Section 80(2) C.P.C. which was allowed and issues No.1 and 2 were decided in favour of the plaintiffs. Under issue No.3, it was held that plaintiffs are owners in possession of the suit property which was allotted to their fathers by the Competent Authority, Gurdaspur and sale certificates were issued in their favour on deposit of necessary sale consideration and the suit was decreed.

7. Appeal filed by the defendants has been dismissed by the Court of Additional District Judge, Gurdaspur.

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8. Feeling aggrieved, present regular second appeal has been instituted. Parties have been heard and material on file has been perused.

9. Both the Courts have held concurrently that the claim regarding the land was made by Inder Singh father of plaintiff-Bahadur Singh and since he was absent on 16.03.1956, the claim was dismissed. The land was mortgaged with possession in favour of Inder Singh and others by evacuees, namely, Wazir etc. and the land thus vested in the custodian free from all encumbrances and liabilities. Later on, claim of Inder Singh and others was revived and the suit property was sold to Inder Singh and Surain Singh fathers of plaintiffs in an open auction vide Ex.P3. From Ex.P3, it is established that land measuring 7 kanal 4 marla bearing khasra No.1851/422 (old) was allotted against a consideration of Rs.200/- and sale certificate Ex.P2 was issued on 16.08.1958. Similarly, another piece of land measuring 5 kanal 2 marla comprising khasra No.25/6/2 was sold in favour of fathers of plaintiffs vide sale certificate dated 10.03.1958 Ex.P6 and plaintiffs had also tendered bidding list Ex.P5. Sale price was also deposited in the Government Treasury by the predecessors of the plaintiffs vide Treasury challans Ex.P7 and Ex.P8 and learned State Counsel could not point out any infirmity in the documents tendered by the plaintiffs. Both the Courts came to the conclusion that land was allotted to the fathers of the plaintiffs and sale certificates were duly issued in their favour but they did not get revenue entries corrected in the jamabandi and land is still being shown as evacuee property in the

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column of ownership and plaintiffs are shown to be in possession over the suit property.

10. As such, both the Courts below have rightly come to the conclusion that suit property was sold by the competent authority in favour of predecessors of plaintiffs in an open auction and sale consideration was deposited in the treasury and sale certificates were issued in their favour in respect of the suit property. Merely because no change was got made in the column of ownership in the jamabandi will not divest the plaintiffs or their predecessors of the ownership rights. It is well settled that the entries in the jamabandis are not the documents of title and they are meant only for fiscal purposes. Rather, title vested in favour of the predecessors of plaintiffs on the basis of sale certificates Ex.P2 and Ex.P6 issued by the competent authority and since then, the predecessors of plaintiffs and now plaintiffs are recorded to be in possession over the suit property. As such, the findings arrived at by both the Courts below thus do not suffer from any infirmity or illegality much less perversity or error in law or procedure and there is thus no reason to take a contrary view and to interfere with the concurrent findings of facts recorded by both the Courts below.

11. It is well settled that in Regular Second Appeal, this Court has limited jurisdiction to interfere in the concurrent findings of facts returned by both the Courts below. Hon'ble Supreme Court in Law Finder Doc Id # 2034559 ***- M/s. Shivali Enterprises v. Godawari (Deceased) (SC):*** has held as under:-

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"14. This Court, in the case of ***Randhir Kaur v. Prithvi Pal Singh and Others (2019) 17 SCC 71,*** *after considering the scope of interference under the old section 100 of the Civil Procedure Code, 1908 (for short "CPC") and Section 41 of the Punjab Act, has observed thus:*

> *"15. A perusal of the aforesaid judgments would show that the jurisdiction in second appeal is not to interfere with the findings of fact on the ground that findings are erroneous, however, gross or inexcusable the error may seem to be. The findings of fact will also include the findings on the basis of documentary evidence. The jurisdiction to interfere in the second appeal is only where there is an error in law or procedure and not merely an error on a question of fact."*

15. It could thus be seen that this Court has held that, even when a court exercises jurisdiction under Section 41 of the Punjab Act, it cannot interfere with the findings of fact in second appeal on the ground that the said findings are erroneous, howsoever gross or inexcusable the error may seem to be. It has been held that the findings of fact would also include the findings on the basis of documentary evidence. The jurisdiction under Section 41 of the Punjab Act would be available only when there is a substantial error or

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defect in the procedure provided by the CPC or by any other law for the time being in force."

(Emphasis added)

12. In view of the aforesaid discussion, no ground is made out to interfere in the impugned judgments and decrees passed by the learned Trial Court and the Appellate Court and the present Regular Second Appeal is hereby dismissed with costs.

13. Pending misc application (s), if any, shall also stand disposed of.

28.07.2026 **(YASHVIR SINGH RATHOR)**
Vishal Vardhan **JUDGE**

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

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