



**RSA-4166 of 2002(O&M)
and 9 other connected RSAs**

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

(104)

**Reserved on : 09.03.2026
Pronounced on: 16.03.2026
Uploaded on: 16.03.2026**

1. RSA-4166 of 2002(O&M)

Bhagwan Singh (Since Deceased) Through LRs ... Appellants

Versus

State of Punjab and Others ... Respondents

AND

2. RSA-4165 of 2002(O&M)

Bhagwan Singh (Since Deceased) Through LRs ... Appellants

Versus

Shangara Singh and Others ... Respondents

AND

3. RSA-3793 of 2002(O&M)

Joginder Singh (Since Deceased) Through LRs ... Appellants

Versus

Bhagwan Singh (Since Deceased) Through LRs ... Respondents

AND

4. RSA-3859 of 2002(O&M)

Mukhtiar Singh and Others ... Appellants

Versus

Bhagwan Singh (Since Deceased) Through LRs ... Respondents

AND



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and 9 other connected RSAs**

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5. RSA-2862 of 2002(O&M)

Bhagwan Singh (Since Deceased) Through LRs ... Appellants

Versus

Mukhtiar Singh and Others ... Respondents

AND

6. RSA-2863 of 2002(O&M)

Bhagwan Singh (Since Deceased) Through LRs ... Appellants

Versus

Mangal Singh and Others ... Respondents

AND

7. RSA-2200 of 2006 (O&M)

Shangara Singh and Another ... Appellants

Versus

Bhagwan Singh (Since Deceased) Through LRs ... Respondents

AND

8. RSA-1374 of 2008 (O&M)

Bhagwan Singh ... Appellant

Versus

Shangara Singh and Another ... Respondents

AND

9. RSA-1874 of 2009(O&M)

Mukhtiar Singh ... Appellant

Versus

Commissioner, Jalandhar Division and Others ... Respondents

AND



**RSA-4166 of 2002(O&M)
and 9 other connected RSAs**

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10. RSA-1890 of 2009(O&M)

Shingara Singh and Another

... Appellants

Versus

Commissioner, Jalandhar Division and Others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Amit Jain, Senior Advocate with
Ms. Aeshna Jain, Advocate
for the Appellants in RSA-2862,2863,4165 and 4166-2002 and
RSA-1374-2008
for respondents in RSA-3793,3859-2002 and RSA-2200-2006.

Mr. Mridual Mahajan, Advocate with
Ms. Puneet Sharma, Advocate
for the Appellants in RSA-3859-2002 and RSA-1874-2009
for the respondent in RSA-2862,2863,4165, 4166-2002 and
RSA-1374-2008.

Mr. Som Nath Saini, Advocate
for the Appellants in RSA-3793-2002,RSA-2200-2006 and
RSA-1890-2009 and
for the respondent in RSA-2862,2863,4165, 4166-2002 and
RSA-1374-2008.

Mr. I.S.Kingra, Sr. DAG, Punjab for the Respondent/State.

VIRINDER AGGARWAL, J

1. These ten Regular Second Appeals collectively challenge a labyrinthine litigation over agricultural land in village Alipura, District Kapurthala, Punjab, originally owned by Kala Singh (deceased). The appeals involve common questions of fact and law, pertain to bifurcated portions of the same property, and are between substantially the same parties, including Bhagwan Singh (claiming under a purported Will dated 08.10.1947), collaterals/legal heirs/Cognates like Mukhtiar Singh, Mangal Singh, Joginder Singh, Shingara Singh (Shangara Singh), and others (asserting inheritance rights), and the State of Punjab (defending escheat). Since the disputes stem from the same cause of



action that Kala Singh's died issueless leading to property escheated to state under Section 29 of the Hindu Succession Act, 1956. These appeals are being disposed of by this common judgment for judicial economy and to avoid multiplicity. Since all the appeals relate to the same corpus of agricultural land and involve overlapping issues pertaining to testamentary succession, collateral inheritance, possession, and the controversy, the evidence, the legal issues and the findings are interwoven, they are being disposed of by this common judgment. For the sake of convenience, the facts are primarily taken from RSA No. 2862 of 2002, with references to the connected matters where necessary.

BACKGROUND FACTS

2. The litigation centres around agricultural land originally owned by one Kala Singh who was a resident of village Karbath (now in Pakistan) and was the owner of substantial agricultural land (18 acre 6-1/2 units) there prior to the partition of the country in the year 1947. Kala Singh had mortgaged portions of his land in Pakistan with Santa Singh and Surain Singh, who were also residents of the same village. After partition, Kala Singh along with the mortgagees migrated to India, leaving behind the said agricultural land in Pakistan as evacuee property. After partition, the land left in Pakistan was subject to allotment under the provisions of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 and the quasi-permanent allotment scheme framed thereunder. In lieu of that, agricultural land measuring 176 kanals 3 marlas was allotted in favour of Kala Singh under the rehabilitation/quasi-permanent allotment scheme by the competent authorities in village Alipur, Tehsil and District Kapurthala. The allotment was made in the name of Kala Singh as original owner of the evacuee property, and the revenue entries reflected his



ownership over the allotted land. It has come on record that Kala Singh died shortly after the partition and without leaving behind any natural heir. In the absence of any apparent successor, the competent revenue authorities initiated proceedings for escheat, resulting in orders dated 27.02.1975 by the Tehsildar, Kapurthala, dated 24.02.1976 by the Sub-Divisional Magistrate (SDM), Kapurthala, and dated 30.03.1994 by the District Collector, Kapurthala, under Sections 32 and 34 of the Punjab Land Revenue Act, 1887, declaring the land as escheated to the State due to absence of heirs in earlier successions involving Kala Singh's ancestors or co-sharers. These orders were passed by the competent revenue authorities after due inquiry and notice, and remained unchallenged, thereby vesting the property in the State as bona vacantia. The said order was not set aside in the revenue hierarchy and attained finality. The finality of the order dated 30.03.1994 forms the pivot of the entire controversy.

3. Eventually, there were two-sided and total five litigations at the civil court level with respect to the estate of Kala Singh. **Firstly**, two civil suits were filed by the Bhagwan Singh on the basis of a Will dated 08.10.1947 purportedly executed by Kala Singh son of Wasawa Singh in his favour, against the defendants (collaterals like Shangara Singh and Joginder Singh). **Secondly**, three civil suits were filed by the collateral-defendants (Shangara Singh and Joginder Singh) through counter-suits for declarations, injunctions, and revenue corrections, asserting inheritance as legal heirs/Cognates. Significantly, the foundational disputes originated in suits filed by the Bhagwan Singh i.e. **Civil Suit Nos. 34 of 1997 and 7 of 2000**, against the collaterals for declarations of ownership under the Will dated 08.10.1947 and injunctions, resulting in the six RSAs of 2002 (2862, 2863, 3859, 3793, 4165, and 4166). Beyond these, the



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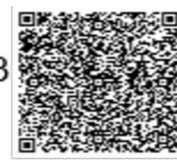
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Shingara Singh and Joginder Singh (Collaterals) filed three additional suits to counter Bhagwan Singh's claims and challenge the escheat orders by Stat i.e. (i) **Civil Suit No. 333 of 2001** for permanent injunction against Bhagwan Singh's interference with 6 kanals 16 marlas of the suit land; (ii) **Civil Suit No. 182 of 2001** against Bhagwan Singh for declaration to correct revenue entries pertaining to 20 kanals 14 marlas; and (iii) **Civil suit no.18** of 1999 directly against the State challenging the escheat orders dated 27.02.1975, 24.02.1976 , and 30.03.1994. The three suits filed by collaterals, along with their first appeals, gave rise to RSA Nos. 2200 of 2006, 1374 of 2008, 1874 of 2009, and 1890 of 2009. So basically there were total five Civil Suits and the present 10 consequential RSAs from those suits.

(I) DETAILS OF LITIGATION BY BHAGWAN SINGH

(i) Civil Suit no.34 of 1995

4. Bhagwan Singh instituted first suit i.e. Civil Suit No. 34 dated 23.01.1995 before the learned Additional Civil Judge (Senior Division), Kapurthala, seeking a declaration that he was the owner in possession of land in village Alipur measuring 148 Kanals 6 Marlas and a permanent injunction restraining the defendants from interfering with his possession being mortgagee of 8 kanals, forming part of the total land measuring 176 kanals 3 marlas allotted to Kala Singh situated in village Alipur, Tehsil and District Kapurthala. The declaration was sought primarily on the basis of the alleged Will dated 08.10.1947 executed by Kala Singh, coupled with possession and mortgage rights. The defendant no.1-Sardul singh admitted the case of plaintiff and filed written statement to the same effect, whereas other defendants contested the suit, alleging the Will was forged and fabricated after Kala Singh's death, and



that Bhagwan Singh had no relation to the deceased. They denied the genuineness of the Will and asserted independent rights based on mortgage transactions and long possession, and defendants no.26 to 36 claimed inheritance as legal heirs/Cognates through two daughters of Kala Singh namely Atto and Bisso. The State was not initially impleaded but was added later. The State of Punjab pleaded that Kala Singh had died without legal heirs/Cognates and that the land had rightly escheated to the Government. A replication was filed by the plaintiff reiterating the averments made in the plaint and denying the assertions of the defendants. Upon a meticulous examination of the pleadings and the competing claims of the parties, the learned Trial Court proceeded to frame the following issues for determination:-

1. *Whether the plaintiff has become owner in possession of the land in dispute being only legal heir of deceased Kala Singh as well as on the basis of Will dated 8.10.1947 executed by Kala Singh deceased in his favour? OPP*

1-A. *Whether the plaintiff has become owner of the suit land by adverse possession? OPP*

1-B *Whether defendants No.26 to 36 are the legal heirs/Cognates of Kala Singh deceased and that they have become owners of the suit land by way of natural inheritance? OPD*

2. *Whether the plaintiff is entitled to the relief of declaration as prayed? OPP*

3. *Whether the plaintiff is entitled to the Relief of permanent injunction as prayed for? OPP*

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



5. *Whether the suit is bad for non-joinder and mis-joinder of necessary parties? OPD*
6. *Whether the plaintiff is debarred from filing the present suit under order 23 Rule 1(3) CPC? OPD*
7. *Whether Kala Singh deceased mortgaged land measuring 64 kanals 18 marlas with Santa Singh, father of defendant No.2 and 3? If so, its effect? OPD*
8. *Whether deceased Kala Singh mortgaged land measuring 17 kanals 1 marla with Sohan Singh and Inder Singh, Predecessor-in-interest of defendants No.6 & 7? If so, its effect? OPD*
9. *Issues no.7 & 8 are proved, Whether mortgagees have become owners in possession of the suit land by afflux of time? OPD*
10. *Whether Suchet Singh, Hakam Singh, Bakhshish Singh, Gujjar Singh succeeded to the estate of Kala Singh deceased in equal shares on the basis of natural succession being the legal heirs/Cognates and If so, its effect? OPD*
11. *Relief.*

5. All the parties were afforded full and adequate opportunity to adduce evidence in substantiation of their respective claims and defences. Upon the culmination of the evidentiary proceedings, and after hearing learned counsel for the parties at length, the learned Additional Civil Judge (Senior Division), Kapurthala, vide judgment dated 30.01.1999, upheld the Will dated 08.10.1947, accepted the plaintiff's claim, and decreed the suit in his favour, holding him entitled to the declaration as prayed for. The learned Trial Court decreed the



suits primarily on the basis of mutation entries and oral evidence regarding the alleged Will. The court relied on the testimony of attesting witnesses and the scribe, dismissing suspicions of forgery due to lack of concrete evidence from the defendants. The collaterals' claim was rejected on the ground that they failed to prove their agnatic relationship with Kala Singh. However, the escheat aspect was not deeply probed, as the trial court focused on the Will's validity.

6. Aggrieved by the judgment and decree dated 30.01.1999 of the learned Trial Court in **Civil Suit No. 34 of 1995**, the contesting defendants preferred following civil appeals before the learned Additional District Judge, Kapurthala:

- *Civil Appeal No. 159 of 1999: Filed by Mukhtiar Singh and others (collaterals) against the decree 30.01.1999 in favour of Bhagwan Singh.*
- *Civil Appeal No. 156 of 1999: Filed by Mangal Singh and another (collaterals) against the same decree.*
- *Cross-Appeal No. 88 of 1999: Filed by Mukhtiar Singh, challenging any adverse observations, though primarily defensive.*

7. In the first appeals preferred by the aggrieved parties, the learned Additional District Judge, Kapurthala undertook a complete re-appraisal of the evidence and, by a common judgment dated 23.05.2002, reversed the material findings of the learned Trial Court held that Bhagwan Singh failed to establish his exclusive right or heirship and ultimately held the Will forged and fabricated. The learned Appellate Court further recorded findings leading to the conclusion that the property of Kala Singh had escheated to the State of Punjab. Categorically, the First Appellate Court held that the Will dated 08.10.1947 was



not proved in accordance with law, that the suspicious circumstances surrounding its execution had not been dispelled such as the Will was registered after Kala Singh's alleged thumb impression in a weakened state, the attesting witnesses were interested parties close to Bhagwan Singh, discrepancies in the scribe's testimony, and the fact that kala Singh had no close relation with Bhagwan Singh. The plaintiff Bhagwan Singh had failed to discharge the burden cast upon a propounder of a testamentary instrument under Section 63 of the Indian Succession Act, 1925 read with Section 68 of the Indian Evidence Act, 1872. The First Appellate Court further observed that Kala Singh had died without leaving behind any proved legal heir and that the Will being unproved, the property could not devolve upon Bhagwan Singh. It was also noticed that the escheat proceedings had not been specifically and effectively challenged in the suits. Consequently, the property was directed to escheat to the State, as no valid heirs were established.

8. Aggrieved by the reversal of findings and the affirmation of vesting of property in the Government, the parties preferred the following Regular Second Appeals:

- ***RSA No. 2862 of 2002: Filed by Bhagwan Singh against Mukhtiar Singh and others, challenging the reversal in Civil Appeal No. 159 of 1999 arising from Civil Suit No. 34.***
- ***RSA No. 2863 of 2002: Filed by Bhagwan Singh against Mangal Singh and others, challenging the reversal in Civil Appeal No. 156 of 1999 arising from Civil Suit No. 34.***



- *RSA No. 3859 of 2002: Filed by Mukhtiar Singh and others against Bhagwan Singh, challenging the escheat direction while seeking inheritance rights (from Civil Suit No. 34).*

(ii) Civil Suit no.7 of 1997

9. During the pendency of the earlier proceedings, plaintiff-Bhagwan Singh also instituted second suit i.e. Civil Suit No. 7 dated 03.01.1997 against same defendants of earlier suit seeking possession of remaining portion of the property (measuring 52 Kanals 9 Marlas) alleging that the defendants had illegally and forcibly taken possession of the said land out of the total holding. The claim for possession was again founded upon the Will dated 08.10.1947 and the declaration already granted by the learned Trial Court in Civil Suit No. 34 of 1995. The defendants contested the suit by filing a written statement, reiterating their denial of the Will, disputing the plaintiff's title and possession, and asserting their own rights as collaterals. The State also contested the claim by disputing the Will and asserting that the property had vested in the Government by escheat. Replication was filed by the plaintiff, reaffirming his stand. Upon a meticulous examination of the pleadings and the competing claims of the parties, the learned Trial Court proceeded to frame the following issues for determination:-

1. *Whether the plaintiff has locus standi to sue? OPP*
2. *Whether valid notice u/s 80 CPC was served on the defendants? OPP*
3. *Whether the plaintiff has acquired title on the suit land on the basis of the Will dated 08.10.1947 executed by Kala Singh? OPP*
4. *Whether the suit as framed is maintainable? OPD*



5. *Whether the plaintiff is entitled to possession of the suit land?*

OPP

6. *Whether the plaintiff is entitled to seek the relief of injunction as prayed for? OPP*

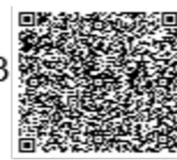
7. *Whether the suit is pre-mature? OPD 2 and 3.*

8. *Relief.*

10. Both parties were afforded full and adequate opportunity to adduce evidence in substantiation of their respective claims and defences. Upon the culmination of the evidentiary proceedings, and after hearing learned counsel for the parties at length, the learned Additional Civil Judge (Senior Division), Kapurthala, relying upon its earlier judgment dated 30.01.1999 in Civil Suit No. 34 of 1995, decreed the suit for possession in favour of Bhagwan Singh vide judgment and decree dated 23.04.2001., upholding the Will and rejecting the collaterals' claims for similar reasons as in Civil Suit No. 34. The State's escheat claim was cursorily addressed, with the court prioritizing the Will over escheat without setting aside the prior escheat orders.

11. Aggrieved by the judgment and decree dated 23.04.2001 of the learned Trial Court in **Civil Suit No. 7 of 1997**, the contesting defendants preferred following civil appeals before the learned Additional District Judge, Kapurthala:

- *Civil Appeal No. 103 of 2001: Filed by Shingara Singh and Joginder Singh (collaterals) against the decree dated 23.04.2001.*
- *Civil Appeal No. 117 of 2001: Filed by Punjab State through Secretary Revenue Punjab, and others against the decree dated 23.04.2001.*



12. By the same common judgment dated 23.05.2002, the learned Additional District Judge, Kapurthala allowed the appeals and similarly reversed the trial court's findings, declared the Will forged for identical reasons, rejected the collaterals' inheritance claims due to insufficient proof of relationship, and held that the property stood escheated to the State.

13. Aggrieved by the reversal of findings and the affirmation of vesting of property in the Government, the parties preferred the following Regular Second Appeals:

- **RSA No. 3793 of 2002:** Filed by Joginder Singh and others against Bhagwan Singh, seeking inheritance and assailing escheat by challenging the reversal in Civil Appeal No. 103 of 2001 arising from Civil Suit No. 7.
- **RSA No. 4165 of 2002:** Filed by Bhagwan Singh against Shingara Singh and others, challenging the reversal in Civil Appeal No. 103 of 2001 arising from Civil Suit No. 7.
- **RSA No. 4166 of 2002:** Filed by Bhagwan Singh against the State of Punjab and others, directly challenging the escheat in the context of Civil Appeal No. 117 of 2001 from Civil Suit No. 7.

14. Though the appeals have been filed by different parties challenging different aspects of the common judgment, the foundational issue remains the same - the validity of the Will dated 08.10.1947 and the consequent question whether the property devolves upon plaintiff-Bhagwan Singh, upon the alleged mortgagees, or stands vested in the State by operation of law. It is also an admitted position emerging from the record that Bhagwan Singh did not independently and directly challenge the escheat orders in either Civil Suit



No.34 or Civil Suit No.7. The absence of such challenge assumes significance in determining the legality of the ultimate vesting of property.

(II) LITIGATION BY COLLATERALS

(iii) Civil Suit no. 18 of 1999

15. The plaintiffs-Shingara Singh and Joginder Singh instituted Civil Suit No. 18 of 1999 dated 18.01.1999 seeking a declaration to the effect that the orders dated 27.02.1975 passed by the Assistant Collector 1st Grade, Kapurthala, dated 24.02.1976 passed by the Collector, Kapurthala, and dated 30.03.1994 passed by the Commissioner, Jalandhar Division, declaring the suit property to have escheated to the State, were illegal, null and void and not binding upon their rights. The foundation of the suit was the plea that the plaintiffs were the collaterals of Kala Singh son of Wasawa Singh and, therefore, his lawful successors. It was pleaded that out of the total land owned by Kala Singh in Pakistan, 64 Kanals 18 Marlas had been mortgaged in favour of Santa Singh, the father of the plaintiffs. After the partition of the country, Santa Singh, the predecessor-in-interest of the plaintiffs, took possession of the land allotted in India in lieu of the mortgaged land situated in Pakistan. It was further averred that the said land had not been redeemed by Kala Singh during his lifetime, and consequently, by efflux of time, the plaintiffs became owners in possession of the mortgaged land. On this basis, it was contended that the revenue authorities had no jurisdiction to deprive the collaterals of their land in mutation proceedings, which are merely summary in nature. It was further asserted that the escheat proceedings were conducted without properly appreciating the existence of legal heirs/Cognates, and therefore the orders



passed therein were without jurisdiction and liable to be ignored. The State contested the suit, denying the alleged relationship and asserting that the property had validly vested in the State after due inquiry, as no lawful heir was established. A replication was filed by the plaintiff reiterating the averments made in the plaint and denying the assertions of the defendants. Upon a meticulous examination of the pleadings and the competing claims of the parties, the learned Trial Court proceeded to frame the following final set of issues for determination:-

1. *Whether the order dated 24.2.1976 of the Collector Kapurthala and the order dated 30.3.1994 of the order dated 27.2.1975 of the Collector, Kapurthala escheating the land in dispute, is void, being without jurisdiction and not binding upon the plaintiffs?
OPP*
2. *Whether the suit is within limitation? OPP*
3. *Whether the suit is not maintainable in the present form? OPD*
4. *Whether the plaintiffs have no locus standi and cause of action to file the present suit? OPD*
5. *Whether the suit is bad for mis-joinder of necessary parties?
OPD*
6. *Whether the suit is bad for want of statutory notice under Section 80 of the CPC? OPD*
7. *Whether this court has got no jurisdiction to entertain and try this suit? OPD*
8. *Whether the plaintiffs have no exhausted the remedy available to them under law? If so, its effect? OPD*
9. *Whether the suit is bared by the principle of res judicata under order 11 of CPC? OPD*



10. Relief.

16. Both parties were afforded full and adequate opportunity to adduce evidence in substantiation of their respective claims and defences. Upon the culmination of the evidentiary proceedings, and after hearing learned counsel for the parties at length, the learned Additional Civil Judge (Senior Division), Kapurthala, dismissed the suit vide judgment and decree dated 20.04.2007 held that the plaintiffs failed to prove by cogent and reliable evidence that they were collaterals or lawful heirs of Kala Singh. The genealogy produced by them was not satisfactorily established. The burden to establish succession lay squarely upon the plaintiffs. Mere oral assertions unsupported by documentary proof or convincing testimony were insufficient. Further, the revenue authorities had conducted inquiry into the existence of heirs before declaring the property as escheat. The plaintiffs failed to prove that the authorities lacked jurisdiction or that the proceedings were vitiated by procedural illegality. It was further held that in absence of proof of legal character or title, the plaintiffs were not entitled to a declaration under Section 34 of the Specific Relief Act. Consequently, the suit was dismissed.

17. Aggrieved by the dismissal of the suit, the plaintiffs preferred Civil Appeal No. 95 of 2007 and Civil Appeal No. 98 of 2007 before the learned District Judge, Kapurthala. Both appeals were heard together and decided by a common judgment dated 26.08.2008.

18. The learned District Judge, Kapurthala, upon reappraisal of the entire evidence, affirmed the judgment and decree of the learned Trial Court and dismissed both appeals. The first appellate Court concurred with the learned Trial Court that the plaintiffs failed to establish their alleged collateral



relationship with Kala Singh. The genealogy relied upon was not proved through independent, reliable evidence. The oral testimony was found to be insufficient and lacking corroboration. The First appellate Court held that the Assistant Collector had conducted inquiry into heirship before declaring the property as escheat. The subsequent orders of the Collector and Commissioner were passed within jurisdiction. The plaintiffs failed to demonstrate that the authorities acted arbitrarily or without legal authority. Since the plaintiffs could not establish succession, they had no subsisting legal right in the property. A declaratory relief cannot be granted in abstract or in vacuum. The Court observed that unless heirship was proved, the plaintiffs lacked locus standi to challenge the escheat orders. The First Appellate Court further held that the revenue proceedings culminating in the order dated 30.03.1994 had attained finality. The civil suit could not be used to reopen settled findings in absence of proof of title. On these findings, Civil Appeal No. 95 of 2007 and Civil Appeal No. 98 of 2007 were dismissed vide judgment dated 26.08.2008, and the decree dated 20.04.2007 passed by the learned Trial Court was affirmed. Aggrieved by the concurrent findings and the affirmation of vesting of property in the Government, the parties preferred the following Regular Second Appeals:

- ***RSA No. 1874 of 2009: Filed by Mukhtiar Singh against Commissioner, Jalandhar Division and others, challenging the findings in Civil Appeal No. 95 of 2007 arising from Civil Suit No. 18.***
- ***RSA No. 1890 of 2009: Filed by Shingara Singh and Joginder Singh against Commissioner, Jalandhar Division and others,***



challenging the findings in Civil Appeal No. 98 of 2007 arising from Civil Suit No. 18.

(iv) Civil Suit no. 333 of 2001

19. The plaintiffs-Shingara Singh and Joginder Singh instituted a civil suit no.333 of 2001 dated 16.07.2001 seeking a decree of permanent injunction restraining the defendant-Bhagwan Singh from interfering in their peaceful possession over the suit land (6 kanals 16 Marlas) situated in village Alipur, Tehsil and District Kapurthala. The plaintiffs pleaded that they were in continuous possession of the suit land and prior to them their father (Santa Singh) had been cultivating the same. After the death of their father, they continued to remain in possession. It was asserted that the defendant Bhagwan Singh had no right, title or interest in the suit land but was threatening to interfere in their peaceful possession. The defendant contested the suit raising preliminary objections that the suit was not maintainable and was barred by the principle of res judicata. It was pleaded that the question of ownership and possession had already been decided in earlier litigation between the parties. According to the defendant, he had earlier filed Civil Suit No. 34 of 1995, which had been decreed in his favour and he had been declared owner in possession of land including the suit property. The plaintiffs were allegedly restrained from interfering in his possession in the said suit. The defendant further asserted that the plaintiffs had no concern with the suit land and the entries in the revenue record showing their possession were incorrect and manipulated.

20. Upon consideration of the pleadings of the parties, the learned Trial Court framed the following issues for determination:-



1. *Whether the plaintiffs are in possession over the suit land and entitled to the relief of permanent injunction as prayed for? OPP*
2. *Whether the suit is not maintainable in the present form and as well as being barred by the principle of res judicata? OPD*
3. *Whether the plaintiffs are estopped to file this suit by their act and conduct? OPD*
4. *If the suit of the plaintiffs is dismissed, whether the defendant is entitled to special costs under Section 35-A CPC? OPD*
5. *Relief.*

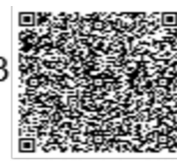
21. In order to prove their case, the plaintiffs examined PW-1 Shingara Singh, who tendered his affidavit and relied upon documentary evidence including revenue records. PW-2 Harbhajan Singh and PW-3 Davinder Singh were also examined to corroborate the possession of the plaintiffs over the suit land. The plaintiffs produced the Jamabandi for the year 1996-97 and Khasra Girdawari entries showing their cultivating possession over the suit property. On the other hand, the defendant examined himself as DW-1 Bhagwan Singh and relied upon earlier judgments, decree sheets and other documents to contend that the property had already been adjudicated in earlier litigation.

22. Upon appreciation of the oral as well as documentary evidence on record and after hearing learned counsel for the parties, the learned Additional Civil Judge (Senior Division), Kapurthala decreed the suit in favour of plaintiffs vide judgment and decree dated 14.09.2007. The learned Trial Court held that the revenue record including Jamabandi and Khasra Girdawari established that the plaintiffs were in cultivating possession of the suit land. The testimony of the plaintiffs' witnesses was found consistent and trustworthy. The learned Trial Court further held that the defendant failed to establish that the earlier civil suits



pertained to the same khasra numbers forming part of the present suit property. Consequently, the plea of res judicata was rejected. Since the plaintiffs were found to be in possession, they were held entitled to protection of their possession. Accordingly, the defendant was restrained from interfering in the peaceful possession of the plaintiffs over the suit land.

23. Aggrieved by the judgment and decree dated 14.09.2007 passed by the learned Trial Court, the defendant-Bhagwan Singh preferred Civil Appeal No. 171 of 2007 before the learned District Judge, Kapurthala. The learned District Judge, Kapurthala, after reappreciation of the entire evidence on record, dismissed the appeal vide judgment and decree dated 11.01.2008. The First Appellate Court concurred with the findings of the learned Trial Court that the plaintiffs had successfully proved their possession over the suit property through revenue records and oral evidence. The first appellate Court further observed that the documentary evidence produced by the defendant did not establish that the earlier litigation related to the same khasra numbers or that the plaintiffs had been previously denied the relief of injunction with respect to the present suit property. The Court held that the evidence led by the plaintiffs clearly tilted the balance of convenience in their favour and established a prima facie case of protection of possession. Therefore, the findings recorded by the learned Trial Court on Issue No.1 were upheld. No convincing evidence was led to prove that the suit was barred by res judicata or was otherwise not maintainable. Consequently, the learned District Judge held that the appeal was devoid of merit and dismissed the same with costs, affirming the judgment and decree passed by the learned Trial Court.



24. Aggrieved by the concurrent findings, the defendant-Bhagwan Singh preferred the following Regular Second Appeals:

- ***RSA No. 1374 of 2008: Filed by Bhagwan Singh against Shangara Singh and Joginder Singh, challenging the findings in Civil Appeal No. 171 of 2007 arising from Civil Suit No. 333.***

(v) Civil Suit no.182 of 2001

25. The plaintiffs-Shanghara Singh and Joginder Singh instituted Civil Suit No. 182 of 2001 dated 03.09.2001 seeking a declaration under Section 45 of the Punjab Land Revenue Act, 1887, to the effect that the revenue entries in respect of cultivation qua the land measuring 20 Kanals 14 Marlas situated in Village Alipur, Tehsil and District Kapurthala, are wrong and liable to be rectified. The foundation of the suit was the plea that though the land measuring 7 Kanals 10 Marlas in cultivating possession of the plaintiffs, it is being shown in the revenue record in the ownership of Kala Singh s/o Wasawa Singh, who died in the year 1947-48. In the column of cultivation, as evident from the latest jamabandi for the year 1996-97, the entry is "Maqbuza Malkan" i.e., in possession of the owners, which means Kala Singh, a dead person, rendering the entry erroneous. Similarly, the land measuring 13 Kanals 4 Marlas, though in cultivating possession of the plaintiffs, is erroneously shown in possession of the defendant-Bhagwan Singh on the basis of a civil court decree dated 30.1.1999 passed in Civil Suit no.34 of 1995 in his favor on the alleged 'Will' dated 8.10.1947, with no mention of Khasra No. 8//20min (4-10) in the suit or decree. This decree was challenged by the plaintiffs and Mukhtiar Singh, son of one of the daughters of Kala Singh, claiming to be the real heir and successor,



with two appeals then pending (later decided on 23.5.2002 holding the 'Will' forged and fabricated). The defendant filed a written statement dated 22.10.2001, averred that he was obtaining possession of these and other Khasra numbers from the plaintiffs in execution of a decree dated 23.4.2001; and the decree dated 30.1.1999 was challenged by the plaintiffs and Mukhtiar Singh, but he had never prevented the plaintiffs from harvesting their standing crop in the two Khasra numbers mentioned in para 1 of the plaint. He further defended that he inherited Kala Singh's property via the 'Will' dated 8.10.1947 and was declared owner in possession through the civil court decree dated 30.1.1999.

26. Upon a meticulous examination of the pleadings and the competing claims of the parties, the learned Trial Court proceeded to frame the following issues for determination:-

1. Whether the plaintiff is entitled to declaration as prayed for?

OPP

2. Whether the present suit is within limitation? OPP

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

4. Relief.

27. Both parties were afforded full and adequate opportunity to adduce evidence in substantiation of their respective claims and defences. Upon the culmination of the evidentiary proceedings, and after hearing learned counsel for the parties at length, the learned Civil Judge (Junior Division), Kapurthala, dismissed the suit vide judgment and decree dated 14.05.2005, holding that the plaintiffs failed to establish their legal capacity and entitlement to rectification of the revenue entries, as the admitted cultivating possession did not override the ownership and possession rights established under the decree dated



30.1.1999 based on the 'Will', and the suit was not maintainable for directing revenue corrections without proving superior title.

28. Aggrieved by the dismissal of the suit, the plaintiffs preferred Civil Appeal No. 144 of 2005 before the learned Additional District Judge, Kapurthala. The learned Additional District Judge, Kapurthala, upon reappraisal of the entire evidence, affirmed the judgment and decree of the learned Trial Court and dismissed the appeal vide judgment dated 23.11.2005. The first appellate Court concurred with the learned Trial Court that the plaintiffs' claim rested solely on cultivating possession without establishing legal title or heirship to Kala Singh, and the revenue entries reflected the valid decree dated 30.1.1999 declaring the defendant as owner in possession via the 'Will'. The Court observed that Section 45 of the Punjab Land Revenue Act empowers correction of clerical errors but not substantive changes without civil adjudication of title, which the plaintiffs failed to secure. The challenges to the Will and decree in parallel proceedings did not bind the present suit because the appeals in those matters were still pending and had not attained finality, and therefore their findings were not treated as conclusive. In absence of proof of legal right to possession or succession, the plaintiffs were not held entitled to declaration for rectification. The learned first appellate Court further held that the suit was barred by limitation and not maintainable in its form, as revenue entries could not be altered based on self-serving possession claims alone. On these findings, Civil Appeal No. 144 of 2005 was dismissed vide judgment dated 23.11.2005, and the decree dated 14.05.2005 passed by the learned Trial Court was affirmed.



29. Aggrieved by the concurrent findings and the refusal to rectify revenue entries contrary to the plaintiffs' possession, the plaintiffs preferred following Regular Second Appeals:

- ***RSA No. 2200 of 2006: Filed by Shangara Singh and Joginder Singh against Bhagwan Singh, challenging the findings in Civil Appeal No. 144 of 2005 arising from Civil Suit No. 182.***

CONTENTIONS

30. Learned counsel for the plaintiff/appellant-Bhagwan Singh in RSA Nos. 2862 and 2863,4165, 4166 of 2002 and RSA no. 1374 of 2008, vehemently argued that the first appellate court erred in reversing the well-reasoned trial court judgment upholding the Will dated 08.10.1947 which stood duly proved by examining attesting witnesses and that the First Appellate Court erred in discarding the same. It was contended that mutation entries corroborated possession and that the escheat proceedings could not defeat a valid testamentary disposition. He contended that the Will was duly registered, attested by two witnesses, and proved through their testimony, satisfying Section 63(c) of the Indian Succession Act, 1925. The suspicions raised by the appellate court, such as Kala Singh's ill health, lack of close relationship with Bhagwan Singh, and alleged interested witnesses, were baseless and not supported by evidence. He submitted that mere suspicions do not invalidate a Will unless proven with cogent evidence. It was argued that minor discrepancies in the testimony of attesting witnesses ought not to have been treated as fatal and that the Will having been executed in the year 1947, some inconsistencies due to lapse of time were natural. It was further contended that once one attesting witness had been examined and had supported the execution,



the requirements of Section 68 of the Indian Evidence Act, 1872 stood satisfied. He further argued that the collaterals failed to establish their agnatic status, and escheat should not apply as Bhagwan Singh's claim under the Will precludes State vesting, as Kala Singh validly bequeathed the property.

31. Learned counsel for the Appellant-Mukhtiar Singh (Legal heir) in RSA Nos. 3859 of 2002 and RSA-1874-2009 submitted that while the first appellate court correctly held the Will forged, it erred in rejecting their inheritance claim. They proved cognatic relationship through pedigree tables and revenue records, entitling them under Section 8 of the Hindu Succession Act, 1956. Escheat under Section 29 should only apply as a last resort. In RSA 4166, counsel for Bhagwan Singh reiterated arguments on the Will's validity, adding that the State's escheat claim was barred by limitation under Article 58 of the Limitation Act, 1963, as the suits were filed within time from dispossession threats. He contended that the appellate court misapplied the burden of proof under Section 101 of the Indian Evidence Act, ignoring positive evidence of execution.

32. Learned counsel appearing on behalf of the defendants-Shangara Singh and Joginder Singh/appellants (Mortgagees) in RSA Nos. 3793 of 2002, RSA-2200-2006 and RSA-1890-2009 assailed the judgment of the learned First Appellate Court primarily on the ground that it misdirected itself in reversing the findings of the learned Trial Court on issues relating to mortgage rights and the effect of allotment under the rehabilitation laws. It was contended that once it stood established that Santa Singh and Surain Singh were mortgagees in possession prior to partition and that their possession continued even after allotment, such possession could not be lightly disturbed. It was argued that the



allotment made under the Displaced Persons (Compensation and Rehabilitation) Act, 1954 conferred quasi-permanent rights which were protected under Section 10 of the said Act and that such allotment could not be nullified on the mere finding that the Will propounded by Bhagwan Singh was not proved. It was further submitted that the First Appellate Court failed to appreciate that long, settled possession of the mortgagees and their successors had ripened into ownership and that the State could not assert superior title without first setting aside such allotment in appropriate proceedings. Learned counsel argued that the findings recorded by the First Appellate Court on Issues relating to mortgage and allotment were perverse and based on misreading of documentary evidence.

33. Per contra, learned State counsel supported the judgment of the First Appellate Court in its entirety. It was argued that the Will was surrounded by suspicious circumstances which had not been dispelled by the propounder; that there was no satisfactory explanation for the exclusion of natural heirs; that the alleged Will surfaced after an inordinate delay; and that the conduct of Bhagwan Singh in not challenging the escheat proceedings was fatal to his claim. On escheat, he emphasized that Bhagwan Singh never challenged the escheat orders dated February 1996 (passed by the Tehsildar under Section 32 of the Punjab Land Revenue Act) in the suits, making them final and binding. It was argued that without setting aside the escheat orders, no declaration contrary thereto could be granted and that the Will was a belated fabrication. He further contended that the property's escheat history, including prior unchallenged orders dated 27.02.1975 by the Tehsildar, Kapurthala, 24.02.1976 by the SDM, Kapurthala, and 30.03.1994 by the District Collector, Kapurthala, under the



revenue department's authority to handle ownerless properties, solidified the State's claim, as these orders were issued after statutory inquiries and remained res judicata. Under Section 29 of the Hindu Succession Act, 1956, and Article 296 of the Constitution, property without heirs vests in the State absolutely. It was further submitted that the collaterals' claims were unproven, as pedigree evidence was unreliable and contradicted revenue entries showing Kala Singh as issueless. He contended that escheat is a sovereign right, not defeated by unproven private claims. Limitation did not bar the State, as escheat operates by operation of law. Therefore, he prayed that the escheat orders be upheld and that the judgments and decrees passed by the learned First Appellate Court, which affirmed the vesting of the property in the State, be maintained.

OBSERVATIONS AND FINDINGS

34. I have heard learned counsel for the appellants at considerable length and have bestowed anxious and thoughtful consideration upon submissions, keeping in view the pleadings of the parties, the evidentiary material brought on record, and the findings by the Courts below.

35. As regards the scope of second appeal, it is now a settled proposition of law that in Punjab and Haryana, second appeals preferred are to be treated as appeals under Section 41 of Punjab Courts Act, 1918 and not under Section 100 of CPC. Reference in this regard can be made to the judgment of the Supreme Court in the case of '*Pankajakshi (Dead) through LRs and others V/s Chandrika and others*', (2016)6 SCC 157, followed by the judgments in the case of '*Kirodi (since deceased) through his LR V/s Ram Parkash and others*' (2019) 11 SCC 317 and '*Satender and others V/s Saroj and others*', 2022(12) Scale 92. Relying upon the law laid down in the aforesaid judgments, no question of law is required to be framed.



36. At the outset, it becomes necessary to identify the core controversy around which the entire chain of litigation revolves. A careful examination of the record reveals that the disputes raised in the subsequent suits filed by the collaterals, namely Civil Suit Nos. 18 of 1999, 333 of 2001 and 182 of 2001, are intrinsically connected with and largely consequential to the adjudication undertaken in Civil Suit Nos. 34 of 1995 and 7 of 1997. The rights asserted in those later suits whether by way of injunction, correction of revenue entries, or challenge to the escheat proceedings derive their foundation from the competing claims over the very same estate of Kala Singh which forms the subject matter of Civil Suit Nos. 34 and 7. In fact, in some of those proceedings specific reliance was placed upon the decree dated 30.01.1999 passed in Civil Suit No. 34 of 1995 and the pendency of the regular second appeals arising therefrom. Consequently, the fate of the later litigations is inextricably dependent upon the determination of the issues arising in the earlier suits and related Regular second appeals.

(RSAs 2862, 2863, 3859, 3793, 4165, and 4166 of 2002)

37. In these circumstances, this Court considers it appropriate to first examine and adjudicate the six Regular Second Appeals arising out of Civil Suit Nos. 34 of 1995 and 7 of 1997, namely RSA Nos. 2862, 2863, 3859, 3793, 4165 and 4166 of 2002. These appeals emanate from the principal litigation concerning two portions of the entire estate of Kala Singh and involve identical questions relating to the validity of the alleged Will dated 08.10.1947, the competing claims of collateral succession, and the plea of escheat set up by the State. Since these issues constitute the central and determinative controversy,



their resolution will necessarily govern the outcome of the remaining appeals arising from the later suits.

38. It is noteworthy that the first appellate court's common judgment dated 23.05.2002 decided by the learned Additional District Judge, Kapurthala, in Civil Appeals Nos. 156, 159 of 1999 and Cross Appeal No. 88 of 1999 (arising from Civil Suit No. 34 of 1997) forms the bedrock for the common judgment in appeals Civil Appeal Nos. 103 of 2001 and 117 of 2001 (arising from Civil Suit No. 7 of 2000), as the issues regarding the Will's validity and escheat are identical. Thus, the present six Regular Second Appeals challenge the correctness of that common judgment dated 23.05.2002. The controversy essentially concerns the claim of plaintiff-Bhagwan Singh founded upon the alleged Will dated 08.10.1947 and the competing assertion of the State that, in the absence of a valid testamentary disposition or established heirs, the estate of Kala Singh stood vested in the State by operation of law.

39. The claim of the appellant Bhagwan Singh in those suits was primarily based upon the alleged Will dated 08.10.1947 purportedly executed by Kala Singh son of Wasawa Singh in his favour, coupled with assertions of possession and earlier mortgage transactions. The defendants-collaterals, on the other hand, denied the genuineness of the Will and asserted succession through mortgage claims and cognatic lineage, while the State maintained that Kala Singh had died issueless and that the property had already been declared escheat by the competent revenue authorities. Significantly, although the escheat proceedings formed part of the background of the dispute, no specific relief was sought in Civil Suit Nos. 34 of 1995 or 7 of 1997 for setting aside the revenue orders declaring the property as escheat.



40. Since the determination of the rival claims of plaintiff-Bhagwan Singh, the alleged collaterals, and the State in these two foundational suits directly bears upon the rights asserted in the subsequent litigations concerning the same estate, this Court deems it proper to first adjudicate the six Regular Second Appeals arising therefrom. The findings recorded in these appeals will constitute the governing framework for deciding the remaining appeals arising out of the later suits, which are essentially derivative in nature and whose outcome is necessarily dependent upon the resolution of the principal controversy relating to the estate of Kala Singh.

Validity of the Will dated 08.10.1947

41. The entire edifice of the claim set up by appellant/plaintiff-Bhagwan Singh rests upon the alleged Will dated 08.10.1947 said to have been executed by Kala Singh son of Wasawa Singh. The law governing proof of testamentary instruments is stringent and well settled.

42. In law, Section 63 of the Indian Succession Act, 1925 deals with execution of unprivileged Wills. It lays down that the testator shall sign or shall affix his mark to the Will or it shall be signed by some other person in his presence and by his direction. It further lays down that the Will shall be attested by two or more witnesses, each of whom has seen the testator signing or affixing his mark to the Will or has seen some other person sign the Will, in the presence and by the direction of the testator and each of the witnesses shall sign the Will in the presence of the testator. Further, Section 68 of the Indian Evidence Act, 1872 mandates examination of one attesting witness in proof of a Will, whether registered or not. Section 63 of the Indian Succession Act, 1925, mandates strict proof of execution and attestation, and where suspicious



circumstances exist, the burden shifts to the propounder to remove them affirmatively.

43. The legal position travels beyond mere mechanical compliance with statutory formalities. The propounder of a Will carries a special burden. Where suspicious circumstances surround its execution, the propounder must dispel them to the satisfaction of the Court. The conscience of the Court must be satisfied that the document propounded is the true and voluntary act of a free testator. A will is one of the most solemn documents known to law. The executant of the will cannot be called to deny the execution or to explain the circumstances in which it was executed. It is, therefore, essential that trustworthy and unimpeachable evidence should be produced before the court to establish genuineness and authenticity of the will. It must be stated that the factum of execution and validity of the will cannot be determined merely by considering the evidence produced by the propounder. In order to judge the credibility of witnesses and disengage the truth from falsehood the court is not confined only to their testimony and demeanour. It would be open to the court to consider circumstances brought out in the evidence or which appear from the nature and contents of the documents itself, it would be also open to the court to look into surrounding circumstances as well as inherent improbabilities; of the case to reach a proper conclusion on the nature of the evidence adduced by the party.

44. The classic exposition of this principle is found in *H. Venkatachala Iyengar v. B.N. Thimmajamma, 1959 (Sup1) SCR 426*, wherein the Hon'ble Supreme court has observed that although the mode of proving a will did not ordinarily differ from that of proving any other document, nonetheless it



requires an element of solemnity in the decision on the question as to whether the document propounded is proved as the last will and testament of departed testator. Where there are suspicious circumstances, the onus would be on the propounder to explain them to the satisfaction of the court before the will could be accepted as genuine. Where there are suspicious circumstances, the Court would naturally expect that all legitimate suspicions should be completely removed before the document is accepted as the last will of the testator. These principles have been reiterated in the subsequent decisions of this Court in ***Rani Purnima Devi v. Kumar Khagendra Narayan Dev, (1962) 3 SCR 195*** and ***Shashi Kumar Banerjee and Ors. v. Subodh Kumar Banerjee and Others, AIR 1964 Supreme Court 529***. A Constitution Bench of the Apex Court in ***Shashi Kumar Banerjee's case (supra)*** succinctly indicated the focal position in law as under:

"Para 4. The principles which govern the proving of a will are well settled; (see H. Venkatachala Iyengar v. B. N. Thimmajamma, 1959 Supp (1) SCR 426 and Rani Purniama Devi v. Khagendra Narayan Dev, (1962) 3 SCR 195.) The mode of proving a will does not ordinarily differ from that of proving any other document except as to the special requirement of attestation prescribed in the case of a will by Section 63 of the Indian Succession Act. The onus of proving the will is on the propounder and in the absence of suspicious circumstances surrounding the execution of the will, proof of testamentary capacity and the signature of the testator as required by law is sufficient to discharge the onus. Where however there are suspicious circumstances, the onus is on the propounder to



explain them to the satisfaction of the Court before the Court accepts the will as genuine. Where the caveator alleges undue influence, fraud and coercion, the onus is on him to prove the same. Even where there are no such pleas but the circumstances give rise to doubts, it is for the propounder to satisfy the conscience of the Court. The suspicious circumstances may be as to genuineness of the signature of the testator, the condition of the testator's mind, the dispositions made in the will being unnatural improbable or unfair in the light of relevant circumstances or there might be other indication in the will to show that the testator's mind was not free. In such a case the Court would naturally expect that all legitimate suspicion should be completely removed before the document is accepted as the last will of the testator. If the propounder himself takes part in the execution of the will which confers a substantial benefit on him, that is also a circumstance to be taken into account, and the propounder is required to remove the doubts by clear and satisfactory evidence. If the propounder succeeds in removing the suspicious circumstances the Court would grant probate, even if the will might be unnatural and might cut off wholly or in part near relations. It is in the light of these settled principles that we have to consider whether the appellants have succeeded in establishing that the will was duly executed and attested. "

45. In the present case, the first appellate court, after meticulous re-appreciation of evidence, rightly concluded that the purported Will dated 08.10.1947, was forged and fabricated, shrouded in suspicious circumstances that Bhagwan Singh failed to dispel. The learned Additional District Judge,



Kapurthala undertook an exhaustive scrutiny of Ex.P-1 (Will dated 08.10.1947) and recorded detailed findings. It was specifically noticed that the Will surfaced for the first time in the year 1994 almost 47 years after its alleged execution and immediately after the Commissioner, Jalandhar Division, vide order dated 30.03.1994 (Ex.D-15), affirmed the escheat proceedings initiated earlier by the Assistant Collector 1st Grade vide order dated 27.02.1975 (Ex.D-16) and upheld by the Collector on 24.02.1976 (Ex.D-14). The learned Court found it wholly unnatural that neither in the revenue mutations nor in the claim proceedings under the Displaced Persons (Compensation and Rehabilitation) Act, 1954, nor even during the prolonged escheat inquiry before revenue authorities, was the alleged Will dated 08.10.1947 ever produced by the propounder Bhagwan Singh or any other person.

46. Moreover, the conduct of plaintiff-Bhagwan Singh assumes decisive significance. The Will is alleged to have been executed in the year 1947. Yet, when escheat proceedings were initiated in 1975 by the revenue authorities and continued till their culmination in 1994, the said alleged Will was never produced before the competent authority. No objections appears to have been filed asserting testamentary succession. For nearly about five decades, there was complete silence. Such prolonged inaction, in matters concerning immovable property, is neither natural nor consistent with ordinary human conduct, particularly when valuable proprietary rights are at stake. It is well settled that though mere delay may not by itself be fatal, unexplained and unnatural silence is a relevant circumstance while testing the genuineness of a testamentary instrument. A genuine legatee would ordinarily assert his rights at the earliest opportunity, especially when the State initiates proceedings to



declare the property escheated. The failure to produce the Will during the escheat proceedings, coupled with the absence of any substantive challenge to the escheat orders even in Civil Suit No. 34 and Civil Suit No. 7, renders the conduct wholly inconsistent with that of a rightful beneficiary. The maxim *vigilantibus non dormientibus jura subveniunt* (the law assists the vigilant and not those who sleep over their rights) squarely applies in this case. The silence maintained for decades cannot be brushed aside as a mere omission; it strikes at the root of the credibility of the alleged testament. The cumulative effect of such conduct, read in conjunction with the other suspicious circumstances, casts a grave and legitimate doubt upon the authenticity of the Will and reinforces the finding recorded by the learned First Appellate Court that the document was not genuine.

47. Furthermore, the first appellate court highlighted the unnatural character of the bequest that Kala Singh had no proximate blood relation or documented affinity with plaintiff-Bhagwan Singh, yet purportedly disinherited alleged two daughters of the Kala Singh and potential collaterals without any rationale in the Will. This unnatural exclusion, coupled with plaintiff-Bhagwan Singh's delay in producing the Will until after Kala Singh's death and the initiation of escheat proceedings, fortifies the inference of post-mortem fabrication. To these findings, it is further noticeable that revenue records post-death initially mutated the property in favour of the State as escheat, with no contemporaneous mention of the Will which also suggests that it was an afterthought.

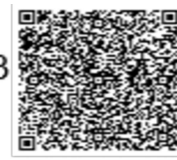
48. The appellate Court further found that the recitals in Ex.P-1 contained patently incorrect genealogical assertions. Surain Singh, Narain Singh and



Banta Singh were described therein as real brothers of Kala Singh, whereas documentary evidence including pedigree table Mark-D and jamabandis proved them to be distant fourth-degree collaterals descending from common ancestor Gudar Singh. Equally false was the recital that plaintiff-Bhagwan Singh was the nephew of Kala Singh. The learned Court recorded a categorical finding that no such close relationship stood established on record. Another circumstance which weighed heavily with the first appellate Court was the reference in the Will to “allotment of land in India.” The learned Court observed that on 08.10.1947, no such concept of allotment under the Punjab Refugees (Registration of Land Claims) Ordinance had crystallized in legal form. The language of Ex.P-1 clearly reflected post-partition statutory terminology, thereby indicating that the document was drafted subsequently and antedated. This manipulation was found to be fraudulent and indicative of a larger design.

49. Further, the first appellate Court also noticed that Kala Singh’s daughters, namely Atto and Bisso, were admittedly alive. Their heirship was proved through the unshaken testimony of Mukhtiar Singh (DW-5), admissible under Section 50 of the Indian Evidence Act, 1872, and supported by claim forms Ex.D-6 and Ex.D-7. No explanation whatsoever was forthcoming in the Will for excluding the daughters. Under customary Hindu law applicable to agricultural land, daughters excluded collaterals in respect of self-acquired property, as noticed by the Court with reference to Mulla’s Hindu Law and judicial precedents. The total omission to even mention them was held to be a highly suspicious and unnatural circumstance.

50. Further, the scribe, Assa Singh (PW-1), was found to be merely 19 years of age in 1947 and admittedly not a regular deed writer. The learned first



Court observed that the drafting style and legal terminology employed in Ex.P-1 suggested professional expertise inconsistent with his age and experience. His testimony was vague regarding the source of instructions and the sequence of execution. Similarly, the attesting witness Waryam Singh (PW-2) was about 21 years old at the time of alleged execution. The other attesting witness Numberdar Kehar Singh had died, but documentary evidence including claim records showed him residing in Village Pandori rather than Village Khanoura where execution allegedly took place. The Court held that their presence at the place of execution was not satisfactorily proved. Further, the opinion of handwriting and thumb-impression expert Arvind Sood (PW-8), who compared the thumb impression on Ex.P-1 with documents Ex.PW7/1 dated 07.09.1947 and Ex.D-1 dated 12.10.1946, was also rightly discarded. The learned first appellate Court found Ex.PW7/1 and Ex.D-1 themselves to be suspicious documents unregistered, and unsupported by independent panchayat or police records. Thus, the comparison exercise lost evidentiary value.

51. In addition to it, the presumption under Section 90 of the Indian Evidence Act was expressly declined. The Court reasoned that Ex.P-1 was neither registered nor produced from proper custody. It was brought forth by Sardul Singh (DW-1), whose relationship with the plaintiff's family (his wife's sister being married to plaintiff's son) was established on record, thereby indicating collusion. Sardul Singh's explanation that he concealed the Will due to a prior quarrel was disbelieved. Moreover, it further emerges from the record that in a previous civil suit instituted by Bhagwan Singh, the Will in question was surfaced through Sardul Singh (DW-1), who is stated to be related to the son of plaintiff-Bhagwan Singh. The said suit, however, was subsequently



withdrawn. The production of the Will through a third person in an earlier proceeding, rather than by Bhagwan Singh himself, assumes significance. It is not the case that the document remained unknown or unavailable; rather, it appears to have been selectively invoked when expedient and abandoned when the proceedings were withdrawn. This circumstance compounds the suspicion. If Bhagwan Singh was indeed the lawful legatee under a valid testament, there was no reason for the Will to be set up indirectly through another person, nor for the earlier suit to be withdrawn without adjudication.

52. Consequently, the acceptance of the Will by the learned trial Court without adequately addressing the serious and compelling suspicious circumstances surrounding its execution was clearly unsustainable and correctly justified interference by the First Appellate Court. It is pertinent to note that the learned First Appellate Court did not reject the Will on account of minor inconsistencies or trivial discrepancies; rather, the rejection was founded upon a cumulative evaluation of several significant suspicious circumstances which the propounder had failed to satisfactorily dispel. The appreciation of evidence undertaken by the First Appellate Court cannot, by any stretch of imagination, be characterised as arbitrary, capricious or perverse. On the contrary, the reasoning adopted is cogent, well-structured and firmly aligned with the settled principles governing the proof of testamentary documents. This Court, therefore, finds no perversity, illegality or material irregularity in the conclusions so recorded. Since the plaintiff, being the propounder of the alleged Will dated 08.10.1947, failed to dispel the suspicious circumstances surrounding its execution and to prove its due and valid execution in accordance with law, the said Will cannot be accepted as genuine. Once the Will



fails, the very foundation of the claim of testamentary succession set up by palintiff-Bhagwan Singh collapses, and no right, title or interest in the estate of Kala Singh can be said to vest in him on the basis thereof.

Discrepancy in Allottee's Identity

53. A pivotal and irrefutable finding rendered by the first appellate Court, which fortifies the reversal of the trial Court's decree and underscores the infirmity in the claims advanced by both the appellant/plaintiff and the respondents/defendants, pertains to the very foundation of title qua the suit land and its allotment under the evacuee rehabilitation scheme. The First appellate Court relied upon revenue extracts Ex.DW4/19 to Ex.DW4/22 which conclusively demonstrated that no claim form was ever filed by Kala Singh son of Wasawa Singh before the Custodian authorities for getting the allotment of land in village Alipur in lieu of land left by him in village Karbath, Tehsil and District Lahore. Further, the certified copy of the allotment order (Ex. D13) unequivocally establishes that the suit property was allotted in favour of *Kala Singh son of Ishar Singh*, and not to *Kala Singh son of Wasawa Singh*, as erroneously presupposed by the parties. The document (Ex. D13) contains no reference whatsoever to the land being granted in lieu of evacuee property abandoned by the allottee in Village Karbath.

54. In the absence of the underlying claim application filed before the Rehabilitation Department, without which the allotment's provenance cannot be authenticated, the first appellate Court rightly concluded that the suit land bears no relation to Kala Singh son of Wasawa Singh, rendering nugatory the appellant's and respondents' competing assertions of heirship thereto. Consequently, neither the appellant, claiming exclusive title via the alleged will



(Ex. P1) purportedly executed by Kala Singh son of Wasawa Singh, nor the respondents, asserting mortgage rights or inheritance as lineal descendants of the same individual, can lay any proprietary claim over the suit land, as it was never allotted to their asserted testator, collateral or ancestor. This finding not only exposes the foundational flaw in the suit but also aligns seamlessly with the statutory mandate under the *Displaced Persons (Compensation and Rehabilitation) Act, 1954*, wherein allotments are non-transferable and devolve strictly per the recorded allottee's lineage. The first appellate Court's discernment in this regard is, thus, impeccably reasoned, evidentially robust, and deserving of unqualified affirmation, thereby precluding any relief in favour of the appellant/plaintiff or defendants.

55. It is also noteworthy that, even on the hypothesis that the suit land had indeed been allotted to Kala Singh son of Wasawa Singh (a proposition belied by the uncontroverted evidence on record) both the appellant and respondents have premised their rival claims on the uncontroverted averment that the said Kala Singh left behind two daughters as his surviving issues. Strikingly, however, neither of these daughters ever asserted or prosecuted any claim to the suit property during their respective lifetimes, despite the passage of decades and the uninterrupted mutation, cultivation thereof by third parties and escheat proceeding to be finalized by the state. Equally telling is the inaction of defendant No. 1, Sardul Singh, and defendants Nos. 22 to 36 who profess to derive their titular interest as the lineal progeny of the daughters Atto and Bisso, in instituting any independent suit or proceedings to vindicate their asserted inheritance. Genuine claimants, vested with a bona fide entitlement qua ancestral property, would invariably seek expeditious adjudication of their



rights rather than adopting a posture of passive acquiescence, content to monitor the unfolding of collateral litigation initiated by others before opportunistically interposing their demands. This protracted dormancy, spanning generations, not only undermines the probative force of the respondents' heirship narrative but also reinforces the first appellate Court's perspicacious conclusion that the suit land harbours no cognizable lineage to Kala Singh son of Wasawa Singh, thereby extinguishing the foundational premise of the appellant's suit and claims of defendants also.

Effect of Escheat and Vesting in the State

56. The next important question pertains to the consequence of failure of succession. The doctrine of bona vacantia is embedded in our jurisprudence and recognises that property of a person dying intestate and without legal heir vests in the State. Such vesting is not penal in character but flows from the sovereign prerogative recognised in law.

57. The first appellate Court adjudicated that plaintiff Bhagwan Singh was not entitled to either declaration of ownership or permanent injunction. It was further held that declaration under Section 34 of the Specific Relief Act requires the plaintiff to establish an existing legal character or right to property. Once the Will was disbelieved and inheritance was not proved, no subsisting legal right remained in favour of the plaintiff. The property, being evacuee property, vested in the Custodian under Section 8 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, and upon escheat stood vested in the State. The civil Court's jurisdiction in matters concerning allotment, compensation or rehabilitation stood barred under Section 36 of the 1954 Act. The learned first appellate Court meticulously examined the revenue and administrative record



relating to escheat proceedings and found that the property in dispute had been declared escheated to the State vide order dated 27.02.1975 passed by the Assistant Collector 1st Grade (Ex.D-16). The said order was affirmed by the Collector, Kapurthala, on 24.02.1976 (Ex.D-14), and ultimately by the Commissioner, Jalandhar Division, on 30.03.1994 (Ex.D-15). These proceedings were conducted after inquiry into the absence of lawful heirs and were never directly challenged by appellant/plaintiff-Bhagwan Singh in appropriate proceedings. Crucially, appellant/plaintiff-Bhagwan Singh did not seek any substantive prayer seeking setting aside of the aforesaid escheat orders in the plaints of Civil Suits Nos. 34 or 7. The relief claimed was confined to declaration of ownership on the basis of inheritance/Will/adverse possession and consequential injunction. Under Order VII Rule 1 CPC, specific relief against escheat was required, but absent. Therefore, in the absence of a direct challenge, such escheat orders attained finality and could not be collaterally impeached.

58. Building on it, this court observes that escheat operates by law under Section 29 of the Hindu Succession Act, 1956, where succession fails for want of heirs, the property devolves to the Government. Further, the Article 296 of the Constitution of India reinforces this as a sovereign prerogative, not a mere title transfer but an absolute vesting. The revenue department's authorities, including the Tehsildar, SDM, and District Collector, have statutory powers under Sections 32, 34, and 35 of the Punjab Land Revenue Act, 1887, to inquire into and declare escheat after verifying the absence of heirs through public notices and local inquiries. In this case, the prior escheat orders dated 27.02.1975 (by Tehsildar, Kapurthala, for initial lapsed holdings), 24.02.1976



(by SDM, Kapurthala, confirming mutation on appeal), and 30.03.1994 (by District Collector, Kapurthala, for consolidated proceedings) were passed in accordance with these provisions, addressing earlier successions where no claimants appeared, and these orders attained finality due to non-challenge within the prescribed limitation period under Section 82 of the Act.

59. Moreover, the submission that the State was required to independently re-prove absence of heirs in these proceedings overlooks the fact that the escheat order stood unchallenged. Finality of proceedings is itself a cornerstone of legal certainty. The first appellate Court also examined the plea of limitation and found that the cause of action, if any, arose at least on 27.02.1975 or, at the latest, on 30.03.1994 when the Commissioner affirmed the escheat. The suit filed in January 1995 without specifically challenging the earlier orders was held barred under Article 58 of the Limitation Act, 1963 insofar as declaratory relief was concerned. With respect to permanent injunction, the Court held that such equitable relief requires the plaintiff to establish a prima facie right, balance of convenience, and irreparable injury. In the absence of title and in view of vesting in the State/Custodian, no prima facie case existed. The State authorities (defendants Nos.22 to 25), namely the Secretary Revenue, Collector, SDO (Civil) and Tehsildar, were acting in discharge of statutory duties. An injunction restraining them from performing statutory functions was impermissible, particularly in view of Section 41 of the Specific Relief Act.

60. It is a settled principle that a binding administrative or quasi-judicial order cannot be collaterally impeached without appropriate pleadings and relief. The First Appellate Court rightly observed that once the Will was disbelieved and no lawful heir was established, the vesting of property in the State remained



unassailable. Therefore when the Will is invalidated with no proven heirs, escheat ensues as a last resort. The unchallenged escheat orders bind parties, and private claims cannot defeat them without direct impeachment. Bhagwan Singh's indirect challenge via declaration suits flouts the maxim *nullus commodum capere potest de injuria sua propria* (no one can profit from his own wrong), as he sought to bypass procedural mandates. Moreover, limitation under Article 58 of the Limitation Act, 1963, does not aid him, as escheat is not a declaratory right but an automatic lapsing. Thus, the property escheats to the State irrevocably as soon as owner died leaving behind no heirs and order passed by authorities is merely affirmation of same vesting in the State.

Mortgage Rights and Claim of Ownership

61. The plea of defendants Nos. 2-11, predicated on the alleged mortgage transactions, also merits scrutiny and rejection. A mortgage, in its classical conception under Section 58 of the Transfer of Property Act, 1882, constitutes a mere transfer of a limited interest in specific immovable property for the purpose of securing the payment of money advanced or its performance of an engagement likely to give rise to a pecuniary liability; it does not, by itself, divest the mortgagor of ownership, which vests absolutely in the latter unless lawfully extinguished through foreclosure or other statutory mechanisms. In the instant case, the defendants' claim hinges on the purported mortgage of the suit land by Kala Singh son of Wasawa Singh, as ostensibly reflected in the certified copy of Jamabandi for the year 1946-47 (Ex. D-17), whereby the land was allegedly mortgaged in favour of Santa Singh son of Suchet Singh, Inder Singh, and Sohan Singh. However, this narrative crumbles under the weight of unimpeachable judicial precedent: the legal heirs/Cognates of Santa Singh



instituted a suit against the plaintiff (appellant herein), Bhagwan Singh, seeking redemption rights, which was dismissed vide judgment dated 30.05.1997 (Ex. PX/2, certified copy), wherein the Court explicitly recorded that the mortgaged land had been duly redeemed and that finding remains unassailed, unset aside, or reversed.

62. Consequently, the defendants cannot plausibly assert proprietorship over any such land by mere efflux of time, as no decree of foreclosure was ever obtained. Moreover there is a legal finding of land having been redeemed. Beyond this, the defendants adduced no trace of evidence to controvert the redemption or establish continued mortgagee rights, rendering their plea evidentially barren. The First Appellate Court rightly concluded that a mortgage could not ripen into ownership absent proof of the requisite legal formalities, including open, hostile, and continuous possession maturing into adverse possession for the statutory period under Article 65 of the Limitation Act, 1963, a mixed question of fact and law that demands rigorous demonstration, not mere reliance on long possession or fiscal mutation entries, which are inconclusive and do not confer title. Even if their claim is assumed to be true, the possession of the mortgagees being permissive in nature cannot, in law, be treated or declared as adverse possession. The legal position in this regard stands authoritatively reiterated by the Hon'ble Supreme Court in ***Mallikarjunaiah v. Nanjaiah 2019 (3) RCR (Civil) 12***, wherein it has been held that a mortgagee does not acquire ownership merely by remaining in possession of the mortgaged property and that the mortgagor's title subsists unless the equity of redemption is extinguished in accordance with law.



63. In fortification of this, it bears emphatic reiteration that the First Appellate Court's categorical determination that the suit land was not allotted to Kala Singh son of Wasawa Singh but rather to Kala Singh son of Ishar Singh (as per Ex. D13) renders the defendants' entire mortgage-based edifice nugatory and otiose ab initio. Any assertion of mortgagee entitlement qua land purportedly mortgaged by a non-existent or unrelated mortgagor collapses into irrelevance, exposing the claim as a contrived afterthought bereft of foundational legitimacy, and underscoring the imperative to dismiss it with the contempt it deserves for its patent redundancy and factual infirmity.

64. Similarly, insofar as plea of plaintiff-Bhagwan Singh based on alleged mortgage transactions and ownership by adverse possession is concerned, the learned First Appellate Court recorded a categorical and reasoned reversal of the learned trial court's approach and affirmed that plaintiff-Bhagwan Singh failed to establish title by prescription as adverse possession must be open, continuous, hostile and to the knowledge of the true owner for a period of twelve years. Moreover, the suit property was evacuee property which, after partition, vested in the Custodian under the provisions of the Displaced Persons (Compensation and Rehabilitation) Act, 1954. It was specifically found that only quasi-permanent allotment had been made in 1954 in favour of Kala Singh son of Ishar Singh, and not Kala Singh son of Wasawa Singh as claimed by the plaintiff. No Parchi Sanad, no conveyance deed and no permanent transfer of proprietary rights was ever proved on record.

65. In the present case, possession, if any, was traced to allotment proceedings and was permissive in nature as that of a displaced person. Limitation begins only from conferment of permanent proprietary rights and not



from quasi-permanent allotment. Since no permanent allotment was proved in favour of Kala Singh son of Wasawa Singh, the very foundation for computing limitation collapsed. More significantly, the plea of adverse possession is self-destructive and mutually inconsistent with the plea of inheritance and Will. Bhagwan Singh claimed possession firstly as heir of Kala Singh, then as beneficiary under the Will Ex.P-1, and alternatively as adverse possessor. Therefore, a person who asserts title through succession cannot, in the same breath, deny the title of the true owner and claim hostile possession. Such mutually destructive pleas destroyed the animus possidendi required in law.

66. It was also noticed that no overt act of hostility was proved against the State or the Custodian. The khasra girdawaris remained unchallenged until 1991-92. No notice repudiating the title of the Custodian or the State was shown. Mere long possession, mutation entries or payment of land revenue do not ripen into ownership unless accompanied by clear hostile assertion. The plaintiff-Bhagwan Singh had initially set up a claim on basis of the Will and which he failed and only as a last resort the plea of adverse possession was introduced. This shifting stand was treated as destructive of credibility and inconsistent with settled principles governing prescriptive title. Consequently, no title by adverse possession had matured in his favour in respect of the suit property.

Claim of legal heirs/Cognates

67. The learned First Appellate Court has correctly rejected the claim of defendants No.26 to 36 of inheritance as legal heirs/cognates under Section 8 of the Hindu Succession Act, 1956, on account of the complete failure to prove their relationship with Kala Singh. The First Appellate Court rightly observed



that the pedigree tables produced by the defendants were wholly unsubstantiated by reliable documentary or cogent oral evidence. The revenue record consistently depicted Kala Singh as having died issueless and did not acknowledge the existence of any collaterals. The witnesses examined on behalf of the alleged collaterals also furnished contradictory and inconsistent accounts regarding the genealogical link, thereby failing to establish the existence of a common ancestor with the required degree of certainty. In this context, it is apposite to note that under Section 50 of the Indian Evidence Act, 1872, opinions as to relationship are admissible only when the witness possesses special means of knowledge regarding the family affairs. In the present case, such requirement remained wholly unfulfilled as the witnesses were not contemporaries of the alleged ancestors and their testimony was based on hearsay rather than personal knowledge.

68. The finding recorded by the learned First Appellate Court in this regard is well-reasoned and legally unassailable. The burden squarely lay upon the defendants/claimants to establish their relationship and entitlement to succeed to the estate in terms of Section 101 of the Indian Evidence Act, 1872, which unequivocally provides that the party who asserts a fact must prove the same. In the present case, the claim of succession rests solely upon vague and unsubstantiated pedigree assertions unsupported by any reliable documentary evidence. Such loose oral claims cannot be permitted to displace the official revenue record which consistently reflects the absence of any recognised heirs. Significantly, the alleged collaterals failed to produce any mutation entries, revenue records, or evidence of family partition or inheritance proceedings which could lend credence to their asserted lineage. The absence of such



foundational material gravely undermines the credibility of their claim and lends full support to the conclusions reached by the First Appellate Court.

69. It is equally significant that the defendants/claimants have failed to establish that the suit land was ever validly allotted to Kala Singh son of Wasawa Singh. Once the very allotment of the property in favour of Kala Singh is not proved on record, the question of the defendants deriving any right therein as his alleged legal heirs does not arise at all. Even assuming for the sake of argument that they were related to Kala Singh, in the absence of proof that the property belonged to him, no right of succession could possibly accrue to them in respect of the said land. Moreover, their conduct also militates against the credibility of the claim set up by them. Notably, none of the alleged collaterals ever instituted any independent suit asserting title to the estate in their own right, nor did they appear before the revenue authorities during the escheat proceedings to assert their alleged status as heirs of Kala Singh. This conspicuous silence and inaction at the relevant stage further weakens their claim and lends support to the conclusion that the plea of collateral succession has been raised as an afterthought during the course of the present litigation.

70. In these circumstances, the appreciation of evidence by the First Appellate Court suffers from no perversity, illegality or misapplication of law, and therefore calls for no interference in the exercise of jurisdiction. Consequently, no substantial question of law arises for consideration by this Court on this aspect as well.

Effect of Allotment under the Rehabilitation Law

71. The reliance placed by the claimants on the alleged allotment under the Displaced Persons (Compensation and Rehabilitation) Act, 1954 does not



advance their case. The scheme of allotment under the said enactment was intended to rehabilitate and compensate displaced persons for properties left behind in territories which became part of Pakistan at the time of partition. Such allotment, by itself, cannot confer title in the absence of a lawful entitlement to the property. It necessarily presupposes that the person claiming through the allottee has established a valid legal basis to succeed to the estate. In the present case, once the claim of testamentary succession as well as the plea of collateral inheritance has failed, the alleged collaterals cannot derive any enforceable right merely on the basis of such allotment.

72. Even otherwise, the claim sought to be founded on the alleged allotment cannot advance the case of the appellants or the defendants. Assuming for the sake of argument that the Will propounded by Bhagwan Singh had been proved or that the collateral claimants had successfully established their relationship with Kala Singh son of Wasawa Singh, even then no right in the suit property could have been derived from the said allotment. Since the material placed on record indicates that the allotment under the rehabilitation scheme was made in the name of Kala Singh son of Ishar Singh, whereas the entire claim in the present litigation relates to the estate of Kala Singh son of Wasawa Singh. In the absence of any evidence establishing that both refer to the same person, the allotment cannot be treated as conferring any right in respect of the estate in dispute. Consequently, the appellants and defendants cannot sustain their claim on the basis of the alleged allotment.

73. Consequently, in view of the failure of the claims based on testamentary succession, collateral inheritance and the alleged mortgage rights, and further having regard to the unchallenged escheat proceedings, as well as the fact that



the alleged allotment is neither proved nor shown to be in the name of Kala Singh son of Wasawa Singh, the only legally sustainable conclusion that emerges is that the entire suit property has validly escheated to the State by operation of law.

74. In view of the detailed discussion recorded hereinabove, this Court finds no merit in any of the contentions raised by the appellant/plaintiff and private defendants also. The learned First Appellate Court has undertaken a thorough reappraisal of the entire evidence on record and has returned findings which are well-reasoned, legally sound and in consonance with settled principles governing proof of testamentary instruments, mortgage rights and vesting by escheat.

75. In conclusion, the first appellate court's findings, fortified by the above reasoning, do not suffer from any perversity or illegality. Thus it warrants no interference by this court. Resultantly, the all six i.e. RSA Nos. 2862, 2863, 4165, and 4166 of 2002 (filed by Bhagwan Singh) and RSA Nos. 3859 and 3793 of 2002 (filed by collaterals) are **dismissed**. The common judgment and decrees dated 23.05.2002 passed by the learned First Appellate Court are affirmed in toto. Decree sheets be prepared accordingly.

(RSAs 1874 of 2009, 1890 of 2009, 2200 of 2006 and 1374 of 2003)

76. Before parting with the present common judgment, it is necessary to deal with the remaining four connected Regular Second Appeals. These appeals arise out of subsequent litigations concerning portions of the same estate of Kala Singh son of Wasawa Singh and the rights claimed therein by different private parties. The determination of the issues raised in those appeals was



substantially dependent upon the adjudication of the principal controversy regarding title, succession and vesting of the estate of Kala Singh, which has now been conclusively decided by this Court while disposing of the above six Regular Second Appeals. The effect of the findings recorded hereinabove necessarily governs the fate of the remaining appeals as well.

RSA Nos. 1874 and 1890 of 2009

77. These appeals arise out of Civil Suit No. 18 of 1999 instituted by Shingara Singh and Joginder Singh, wherein the plaintiffs had sought to challenge the escheat orders passed by the revenue authorities with respect to the estate of Kala Singh. The learned trial Court dismissed the suit, and the said dismissal was affirmed by the learned First Appellate Court. The First Appellate Court correctly concluded that the plaintiffs had failed to establish their legal title or any lawful right in the suit property and, therefore, lacked the locus standi to question the validity of the escheat orders.

78. It is pertinent to note that Shingara Singh and Joginder Singh were also defendants in Civil Suit No. 34 of 1995, and their claim founded upon the alleged mortgage transactions has already been examined and rejected by this Court while deciding the connected appeals (Paragraphs 61 to 63 of this judgment). Once their claim of right through mortgage has been found to be untenable and they have failed to establish any lawful succession to the estate of Kala Singh, they cannot be permitted to maintain a challenge to the escheat proceedings. Moreover, in the preceding part of this judgment, this Court has conclusively held that the entire estate of Kala Singh has lawfully vested in the State by operation of the doctrine of escheat. In such circumstances, the plaintiffs were clearly devoid of any locus standi to question the validity of the



**RSA-4166 of 2002(O&M)
and 9 other connected RSAs**

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escheat orders. Consequently, the Courts below were fully justified in dismissing the suit as well as the appeals arising therefrom. Accordingly, **RSA Nos. 1874 of 2009 and 1890 of 2009 are also dismissed.**

RSA No. 2200 of 2006

79. This appeal arises out of Civil Suit No. 182 of 2001 filed for declaration seeking correction of revenue entries in respect of land measuring 20 Kanals 14 Marlas. The said suit was dismissed by the learned trial Court and the dismissal was affirmed by the learned First Appellate Court. The Courts below recorded that the plaintiffs had failed to establish any legal capacity or entitlement to seek correction of the revenue entries and that the mutation entries stood recorded in favour of Bhagwan Singh. The First Appellate Court also noticed that the matter was already subject to interim orders passed by this Court in RSA Nos. 4166 and 4165 of 2002 directing maintenance of status quo. The findings recorded by the Courts below are found to be correct and do not warrant interference. More importantly, in view of the conclusions now recorded by this Court in the connected appeals holding that the entire estate of Kala Singh stands escheated to the State and that no private party has been able to establish a lawful title therein, the very foundation of the present appeal ceases to survive. Consequently, **RSA No. 2200 of 2006 is also dismissed as a necessary consequence of the findings recorded in the present judgment.**

RSA No. 1374 of 2003

80. This appeal has been filed by Bhagwan Singh challenging the judgment and decree passed in favour of the plaintiffs Shingara Singh and Joginder Singh in Civil Suit No. 333 of 2001, whereby the suit for permanent injunction was



decreed and the said decree was affirmed by the learned First Appellate Court. However, in view of the conclusions reached in the present batch of six appeals, the said decree of injunction cannot be allowed to stand. This Court has conclusively held that the entire estate of Kala Singh has lawfully vested in the State by operation of the doctrine of escheat and that none of the private parties have been able to establish any lawful title or right in the said property.

81. Once the property has been held to vest in the State, a decree of permanent injunction between private parties in respect of the said property cannot be sustained in law, as neither party can claim any legally enforceable right to possession against the true owner, namely the State. Consequently, the decree of injunction granted in favour of the plaintiffs cannot survive. The State would be entitled to take possession of the land forming part of Civil Suit No. 333 of 2001 along with the rest of the estate of Kala Singh situated in Village Alipur, Tehsil and District Kapurthala. Accordingly, **RSA No. 1374 of 2003 is also disposed of in terms of the findings recorded hereinabove.**

82. Consequently, the fate of the said four Regular Second Appeals necessarily follows the conclusions recorded in the present batch of six appeals. Since the foundational issue of title has already been determined against the claimants and the property has been held to have escheated to the State, no independent or surviving cause remains for adjudication in those appeals. Accordingly, the remaining four connected Regular Second Appeals are also dismissed in consequence of and in conformity with the findings recorded hereinabove, and the judgments and decrees impugned therein are affirmed.

83. On a comprehensive consideration of the matter, **all the ten Regular Second Appeals** arising out of the disputes relating to the estate of Kala Singh



**RSA-4166 of 2002(O&M)
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are hereby dismissed. It is held that none of the private parties have been able to establish any lawful title, succession, or enforceable right in respect of the suit property. Thus, the entire estate of Kala Singh situated in Village Alipur, Tehsil and District Kapurthala stands vested in the State by operation of the doctrine of escheat. The State authorities shall, therefore, be at liberty to proceed to take possession of the said estate **in accordance with law.**

84. Since the main appeals stands decided, pending application(s), if any, also stand disposed of.

85. The photocopy of the judgment be placed on the files of connected cases.

**(VIRINDER AGGARWAL)
JUDGE**

16.03.2026
Saurav Pathania

- (i) *Whether speaking/reasoned* : Yes/No
(ii) *Whether reportable* : Yes/No