



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

101

RSA No.958 of 1989 (O&M)**Reserved on:04.05.2026****Pronounced on:13.05.2026****Uploaded on:14.05.2026**

Manohar Singh and others

... Appellants

Versus

Harbhajan Kaur and others

...Respondents

CORAM : HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. Vikas Singh, Senior Advocate with
Ms. Anamika Sheoran, Advocate
for the appellants.

Respondent No.4 stands deleted from array of parties
Vide order dated 04.12.1995.

Mr. Bhrigu Dutt Sharma, Advocate
for LR's of respondent No.5.

Mr. Harsh Chopra, Advocate with
Mr. Gurjeet Singh, Advocate
for respondent No.6.

Respondent No.7 stands deleted from array of parties
vide order dated 08.05.2018.

Service of respondent No.8 dispensed with vide order dated
28.01.2026.

Mr. Amandeep Singh, Advocate
for respondent No.9(i).

Service of respondent No.9(ii) dispensed with vide order dated
20.05.2024.

AMARINDER SINGH GREWAL, J.

1. The instant regular second appeal has been preferred by the appellants-plaintiffs assailing the judgment and decree dated 13.09.1985 passed by



the learned Sub Judge, IInd Class, Jalandhar (hereinafter referred to as the learned trial Court) whereby the suit preferred by them was dismissed as well as the judgment and decree dated 14.12.1988 passed by the learned Additional District Judge, Jalandhar (hereinafter referred to as the learned 1st Appellate Court) whereby the appeal instituted by the appellants-plaintiffs against the aforesaid judgment and decree of the learned trial Court was dismissed, whereas the cross-objections preferred by respondent Nos.5 and 6/defendant Nos.1 and 2 were allowed.

2. For the sake of convenience, the parties shall be referred to in terms of their status before the trial court.

3. Briefly put, the appellants-plaintiffs instituted a suit under Section 45 of the Punjab Land Revenue Act, 1887 seeking correction of the jamabandi for the year 1977–78 relating to village Nagra in respect of Khata No.112/250, 253, 254, 251, 252, 255, comprising Khasra Nos.65, 66, 161, 170, 222, 224, 225, 172, 147, 149, 171, 226, 500, 249 and 223, measuring 100 kanals and 18 marlas, and Khata No.113/256, comprising Khasra Nos.148, 150, 349/2, 350, 493 and 494, measuring 138 kanals and 3 marlas, total measuring 239 kanals and 1 marla. The plaintiffs further sought a declaration that each of the plaintiffs and defendant Nos.3 to 5 was entitled to 1/12th share, aggregating to 2/3rd share, while defendants No.1 2, being his transferee, be reflected as co-owners to the extent of 1/3rd share, subject to deduction of 63 kanals and 16 marlas already purchased by the plaintiffs from defendant No.1, and the revenue record be corrected accordingly.

4. The suit property is part of estate of Battan Singh, who was owner of the land holding of 240 kanals. His estate was inherited by his sons Surein Singh and Achhar Singh in equal shares. Surein Singh became owner of half share which



after his death was inherited by his six sons i.e. plaintiffs and defendant No.1, his widow-defendant No.3 and his two daughters arrayed as defendants No.4 and 5, in the ratio of 1/18th share each. After the death of Achhar Singh, his share was inherited by Smt. Ralli, his widow. On the death of Smt. Ralli, her share was inherited by Achhar Kaur and Surein Singh, who were sister and brother of Achhar Singh, husband of Smt. Ralli. In this manner, Surein Singh became owner of 3/4th share in the land in dispute and Smt. Achhar Kaur became the owner of 1/4th share. As per the share of Surein Singh and Achhar Kaur, mutation No.419 was sanctioned on 26.02.63, against which defendant No.1-Harbans Singh filed an appeal which was dismissed on 06.05.63 with an observation to approach the Civil Court. Thereafter, defendant No.1 approached the Civil Court vide Civil Suit No.340 of 1963 wherein decree dated 13.09.1964 was passed in the absence of plaintiffs and other legal heirs of Surein Singh and in pursuance of the aforesaid decree, Mutation No.658 was sanctioned in favour of defendant No.1 on 14.01.1966. It was further alleged that aforesaid mutation was sanctioned by playing fraud by defendant No.1 upon plaintiffs and other legal heirs of Surein Singh, as the alleged decree dated 13.09.1964 was not even traceable. It was also alleged that out of his share of 153 kanals 6 marlas, he had sold 63 kanals 8 marlas of land to plaintiffs vide sale deed dated 07.02.1967, thus, having left with only 15 kanals 2 marlas of land. However, with a mala fide intention, defendant No.1 suffered a collusive decree Ex.D9/4 qua 119 kanals in favour of his daughter, defendant No.2, which was challenged by plaintiffs vide a separate suit seeking cancellation of the same being void. Even defendant No.1 also denied sale of 63 kanals 18 marlas of land to plaintiffs, which compelled them to scrutinize the



revenue record and on being found discrepancies in the revenue entries, the present suit was instituted.

5. The suit was contested by defendants No.1 and 2 by filing common written statement; whereas defendant No.4 filed separate written statement. It was contended that after inheriting share of Acchar Singh, his widow Ralli, executed Will dated 31.12.1960 in favour defendant No.1-Harbans Singh on the basis of which decree dated 13.02.1964 was passed and thereafter, mutation No.658 was sanctioned in his favour. It was further contended that the aforesaid decree was passed in the presence of plaintiffs and other legal heirs of Surein Singh and till the time of sanctioning of mutation No.658, plaintiffs were relying upon the said revenue entries in various civil and partition suits. Thus, filing of the present suit in the year 1985 is barred by limitation. Furthermore, it was contended that alleged sale of 63 kanals 15 marlas of land by defendant No.1 to plaintiffs was only a sham transaction in order to save the land from his son, who wanted to alienate the same. Therefore, prayer for dismissal of the suit was sought.

6. On the basis of pleadings of the parties, following issues were framed by the learned trial Court:

- “1. Whether the suit barred by the principle of res judicata? OPD*
- 2. Whether the plaintiffs are estopped to file the present suit by their act and conduct? OPD*
- 3. Whether the suit is barred by time? OPD*
- 4. Whether the plaintiff and defendants No.3 to 5 are entitled to 2/3rd share in the land in dispute? OPP*
- 5. Whether the revenue record has been incorrectly prepared. If so to what effect? OPP*



6. *Whether the plaintiff is entitled to the declaration prayed for? OPP*

6-A. *Whether Ralli executed valid will dated 31.12.1960 bequeathing away 120 Kanals of land in favour of defendant No.1? OPD*

6-B. *Whether the sale deed dated 8.2.67 is a benami and sham transaction. If so its effect? OPD*

7. *Relief''*

7. The learned trial Court vide judgment and decree dated 13.09.1985, dismissed the suit filed by the appellants-plaintiffs as being barred by limitation. However, pleas of *res judicata* and estoppel raised by the defendants were rejected. The Will dated 31.12.1960 was held to be unproved, and it was further observed that the decree dated 13.02.1964 conferred ownership upon defendant No.1-Harbans Singh only to the extent of 1/3rd share. Although the sale deed dated 02.08.1967 was held to be a sham transaction, defendant No.1, being the vendor, was held to be bound by it.

8. Aggrieved thereof, the appellants-plaintiffs preferred appeal on the issue of limitation, while respondent Nos.5 and 6/defendant Nos. 1 and 2 filed cross-objections against the remaining findings.

9. The learned 1st Appellate Court, vide judgment and decree dated 14.12.1988 affirmed the findings of the learned trial Court on the issue of limitation and held the suit filed by the appellants-plaintiffs to be time barred. It was further held that by virtue of the judgment and decree dated 13.09.1964, defendant No.1-Harbans Singh had been declared owner of the entire estate of Ralli and, consequently, the suit was barred by *res judicata*. As regards the sale deed dated 02.08.1967 pertaining to 63 kanals and 18 marlas of land, the learned 1st Appellate Court held the same to be a sham transaction and observed that no valid



title was passed in favour of the plaintiffs. Consequently, the appeal preferred by the appellants-plaintiffs was dismissed, while the cross-objections filed by respondent Nos. 5 and 6/defendant Nos. 1 and 2 were allowed, which led to the filing of the present appeal.

10. Mr. Vikas Singh, learned senior counsel assisted by Ms. Anamika Sheoran, Advocate appearing for the appellants-plaintiffs submitted that the findings recorded by the learned Courts below are legally unsustainable. It was argued that the compromise decree dated 13.02.1964 could not bind the plaintiffs, as they were not parties thereto, and such a decree, not being the result of adjudication by the Court, could not operate as *res judicata*. The suit was decreed against Acchri only on the condition that defendant No.1-Harbans Singh will pay a sum of Rs.5000/- to her and not against the plaintiffs. Reliance has been placed upon the judgment passed by the Hon'ble Supreme Court in ***Pulavarthi Venkata v. Valluri Jagannadha Rao, AIR 1967 SC 591***. It was further contended that since the alleged Will of Smt. Ralli remained unproved, succession to her estate was required to be determined in accordance with the Hindu Succession Act, 1956, under which the plaintiffs claim inheritance rights. It was also argued that the suit involved not merely correction of revenue entries but assertion of inheritance rights, and, therefore, the question of limitation could not be reckoned from the mutation entries, which by themselves neither create nor extinguish title.

11. It was further submitted that the learned 1st Appellate Court erred in treating the revenue entries as valid solely on the basis of the compromise decree dated 13.02.1964, which according to the appellants, was neither binding upon them nor capable of operating as *res judicata*. Lastly, challenge has been laid to the findings regarding the sale deed dated 08.02.1967, contending that in the absence



of any proceedings seeking its cancellation within the limitation prescribed under Article 59 of the Limitation Act, 1963, the same could not have been termed a sham transaction.

12. *Per contra*, learned counsel for the respondents No.5, 6 and 9(i) submitted that the learned 1st Appellate Court has rightly appreciated the oral as well as documentary evidence on record, and the findings recorded are well reasoned and call for no interference in the present appeal. It was further argued that the suit, instituted on 17.05.1983 challenging mutation No.658 sanctioned on 14.01.1966, is hopelessly barred by limitation under Article 58 of the Limitation Act, 1963, particularly when the plaintiffs had knowledge of the revenue entries much prior thereto. It was further submitted that the judgment and decree dated 13.02.1964, on the basis of which mutation No. 658 was sanctioned, is binding upon the parties and operates as *res judicata*. In the absence of any challenge to the said decree or mutation, the consequential jamabandi entries cannot be questioned. It was further contended that the alleged sale deed dated 08.02.1967 (Ex.P-1) is a sham transaction, executed without consideration and never acted upon. Reliance has been placed upon the testimony of PW-1 Ajit Singh as well as Khasra Girdawari entries Ex. D9/23 and Ex. D9/24 to contend that possession of the suit land continued with defendant No.1-Harbans Singh, thereby showing that the alleged sale transaction was never given effect to. Plaintiffs had never asserted any exclusive right on the basis of the said sale deed. Moreover, despite being the onus to prove issues No.4, 5 and 6 upon the plaintiffs, they failed to lead any affirmative evidence in support of their case and evidence was led in rebuttal without explicitly reserving the right during initial stage of trial. In support of the aforesaid submissions, reliance was placed upon the judgments passed by the Hon'ble



Supreme Court in *Kewal Krishan v. Rajesh Kumar and others* (2022) 18 SCC 489 and *Smt. Gangabai v. Smt. Chhabubai* 1982 (1) RCR (Rent) 384 as well as the judgments passed by Coordinate Benches of this Court in *Piara Singh v. Harbhajan Singh* 2006 (2) RCR (Civil) 21; *Vijaya Mittal and others Vs. Anil Khetan and others* 2024 NCPHHC 150176.

13. I have heard learned counsel for both parties and perused the paper book as well as case laws cited with their able assistance.

14. The learned trial Court, while deciding Issue No.3, held the suit to be barred by limitation, having been instituted long after accrual of the cause of action in favour of the plaintiffs, and consequently dismissed the suit. Aggrieved against the said judgment and decree, the plaintiffs preferred an appeal, whereas defendants No.1 and 2 filed cross-objections assailing the findings returned on the remaining issues. The learned 1st Appellate Court, upon reappraisal of the record, held the suit to be barred by the principle of *res judicata* and concurrently affirmed the finding of the learned trial Court on limitation. A perusal of the records of learned Courts below reveals that mutation No.658 was sanctioned on 14.01.1966 on the basis of judgment and decree dated 13.02.1964, and the revenue entries flowing therefrom continued to be reflected in the subsequent jamabandis. Based on the said revenue entries, plaintiff No.5 moved an application seeking partition before the Assistant Collector, Jalandhar on 26.09.1975 but the same was withdrawn subsequently on 26.05.1983. Even plaintiff No.5 mortgaged his 7 kanals 14 marlas of land vide mortgage Ex.D9/2 dated 19.06.1969 wherein it was clearly recited that he was owner of 1/18th share of the total land and referred to the jamabandi for the year 1967-68 in which share of defendant No.1 was clearly reflected according to the mutation dated 14.01.1966. Plaintiffs had also pledged



their land on the basis of aforesaid revenue entries. Thus, both the learned Courts below have rightly held that plaintiffs had the knowledge of judgment and decree dated 13.09.1964. The present suit came to be instituted by the plaintiffs only on 17.05.1983, after an unexplained lapse of about 17 years. Thus, the finding that the suit is barred by limitation calls for no interference, as the same is barred by limitation as prescribed under Article 58 of Limitation Act, 1963.

15. The learned 1st Appellate Court has rightly held the sale deed Ex.P-1 dated 08.02.1967 to be a sham transaction. The plaintiffs failed to establish payment of sale consideration or delivery of possession. Rather, the testimony of PW-1 Ajit Singh, read along with Khasra Girdawari entries Ex. D9/23 and Ex. D9/24, clearly shows that possession of the suit land continued with defendant No.1-Harbans Singh and the alleged sale deed was never acted upon. The plaintiffs also never asserted any exclusive right on the basis of the said document. They never made an attempt to get enforced their right to possession, had any valid sale deed was executed by defendant No.1 in their favour. It is also evident from the record that despite being the onus to prove material issues upon the plaintiffs, they failed to lead cogent affirmative evidence in support of their case. Further, this Court finds merit in the conclusion drawn by the learned 1st Appellate Court that the judgment and decree dated 13.02.1964, on the basis of which the aforesaid mutation was sanctioned, is binding upon the parties and operates as *res judicata*. In the absence of any challenge to the said decree or to mutation No.658 within the period of limitation, the plaintiffs could not seek declaration of the same as void in the present suit as well as correction of the consequential revenue entries at such a belated stage.



16. In view of the judgments passed by the Hon'ble Supreme Court in *Pankajakshi (Dead) through Legal Representatives and others Vs. Chandrika and others (2016) 6 SCC 157*, *Randhir Kaur Vs. Prithvi Pal Singh and others (2019) 17 SCC 71* and *Gurbachan Singh (dead) through LRs Vs. Gurcharan Singh (dead) through LRs and others (2023) SCC Online SC 875*, questions of law are not required to be framed in second appeal before the Punjab and Haryana High Court whose jurisdiction is circumscribed by provisions of Section 41 of the Punjab Courts Act, 1918.

17. As an upshot, this Court finds no illegality and perversity in the judgment and decree dated 14.12.1988 passed by the learned 1st Appellate Court as and the finding rendered by the learned trial Court on issue No.3 vide judgment and decree dated 13.09.1985 and the same are upheld. Consequently, the regular second appeal is dismissed.

18. Pending misc. application, if any, also stands disposed of.

(AMARINDER SINGH GREWAL)
JUDGE

May 13, 2026

Pankaj*

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