



REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. _____ OF 2024**

(Arising out of SLP (C) No.25213 of 2024)

THE STATE OF HARYANA & ANR. ...APPELLANT(S)

VERSUS

**AMIN LAL (SINCE DECEASED)
THROUGH HIS LRS & ORS. ...RESPONDENT(S)**

J U D G M E N T

VIKRAM NATH, J.

1. Leave granted.
2. The present appeal arises from the judgment and order dated 31st January 2019 passed by the High Court of Punjab & Haryana at Chandigarh in RSA No. 3818 of 1987. The High Court allowed the regular second appeal filed by the respondents herein (original plaintiffs), setting aside the judgment of the First Appellate Court and restoring the decree passed by the Trial Court in favour of the plaintiffs. Aggrieved by the High Court's decision, the appellants (original

defendants), namely the State of Haryana and the Public Works Department (PWD), have preferred this appeal.

3. The facts of the case leading up to the present appeal are as follows:

3.1 The dispute pertains to a piece of land measuring 18 Biswas Pukhta comprised in Khasra No. 2348 (0-10 Biswas) and Khasra No. 2458 (0-8 Biswas), situated within the revenue estate of Bahadurgarh, Haryana. The land is located on both sides of National Highway No. 10, which connects Delhi and Bahadurgarh.

3.2. On 28th March 1981, the original plaintiffs, namely, Shri Amin Lal and Shri Ashok Kumar, filed a suit for possession of the suit property before the Court of Sub-Judge 1st Class, Bahadurgarh. They claimed ownership of the land based on revenue records and alleged that the defendants had unauthorizedly occupied the land approximately three and a half years prior to the filing of the suit. The plaintiffs contended that despite repeated requests and a legal notice served under Section 80 of the

Code of Civil Procedure, 1908, the defendants failed to vacate the land.

3.3. The defendants, the State of Haryana and PWD, contested the suit by filing a written statement dated 17th September, 1985. They raised preliminary objections, asserting that they had been in continuous and uninterrupted possession of the suit land since 1879-80. They claimed that their possession was open, hostile, and adverse to the plaintiffs, and as such, they had become owners by way of adverse possession. The defendants also contended that the land had been used as a store by the PWD and its predecessor entities, including the District Board and Zila Parishad, for over a century.

3.4. Based on the pleadings, the Trial Court framed the following main issues:

“A. Whether the State of Haryana has become owner of the suit land by way of adverse possession?

B. Whether the plaintiffs have no locus standi to file the present suit?”

- 3.5 The plaintiffs examined seven witnesses and produced revenue records, including copies of jamabandis (Exhibits P1 to P9). The defendants examined ten witnesses and produced various documents, including revenue records dating back to 1879-80 (Exhibits D1 to D22).
- 3.6. On 2nd May 1986, the Trial Court decreed the suit in favour of the plaintiffs. It held that the defendants had failed to prove that they had become owners by adverse possession. Mere placement of bitumen drums and construction of a boundary wall in 1980 did not constitute adverse possession. The plaintiffs had locus standi to file the suit, as they were recorded as owners in the jamabandis. The defendants' possession, if any, was permissive and not hostile.
- 3.7. Aggrieved by the Trial Court's decision, the defendants filed an appeal before the District Judge, Rohtak. The First Appellate Court, after reappreciating the evidence, allowed the appeal

on 8th October 1987 and dismissed the plaintiffs' suit. The Appellate Court held that:

- The plaintiffs failed to prove their ownership, as they did not produce the sale deeds or mutation records establishing their title.
- The jamabandi entries in favor of the plaintiffs were doubtful and appeared to be manipulated.
- The defendants and their predecessors had been in continuous possession of the suit land since 1879-80.
- The defendants' possession was open, continuous, and adverse, thereby perfecting their title by adverse possession.
- The plaintiffs were attempting to grab the land by manipulating revenue records.

3.8. The plaintiffs filed RSA No. 3818 of 1987 before the High Court of Punjab and Haryana, challenging the judgment of the First Appellate Court. The High Court framed the following substantial questions of law:

“I. Whether the State can set up the plea of adverse possession, and does it imply admitting the title of the plaintiffs?

II. Whether the judgment and decree of the Lower Appellate Court suffer from illegality and perversity?”

The High Court allowed the appeal, holding that:

- By taking the plea of adverse possession, the defendants impliedly admitted the title of the plaintiffs.
- The State cannot claim title through adverse possession against its own citizens.
- The defendants failed to specifically deny the plaintiffs' title as required under Order 8 Rule 5 of the Code of Civil Procedure.
- The possession of the defendants was permissive, as evidenced by the Misal Hakiyat of 1879-80.
- The First Appellate Court erred in shifting the burden of proof onto the plaintiffs and in not appreciating the evidence correctly.

3.9. Aggrieved by the High Court's judgment, the defendants (now appellants) have approached this Court.

4. We have heard Shri Vikramjeet Banerjee, learned Additional Solicitor General for the Appellants and Shri Santosh Paul, learned Senior Counsel for the Respondents.

5. Mr. Vikramjeet Banerjee, learned A.S.G, appearing on behalf of the appellant the State of Haryana and its authorities, has argued that the High Court erred in overturning the well-reasoned judgment of the First Appellate Court, which had dismissed the plaintiffs' suit. The gist of his arguments is as follows:

(i). **Plaintiffs' Failure to Prove Title:** The appellants assert that the plaintiffs did not produce any substantive evidence to establish their ownership of the suit property. Despite opportunities provided by the Trial Court and the First Appellate Court, the plaintiffs failed to present any sale deeds or title documents. Mere reliance on jamabandi (revenue records) is insufficient to

confer title, as revenue entries do not create or extinguish ownership rights.

(ii). **Burden of Proof Misplaced:** The appellants further argue that the High Court incorrectly shifted the burden of proof onto the defendants to establish who the real owner is. In a suit for possession, the plaintiff must stand on the strength of their own title. The appellants cite precedents to emphasize that the weakness of the defendant's case cannot be a ground for granting relief to the plaintiffs.

(iii). **Adverse Possession and Limitation:** While acknowledging that the State cannot claim adverse possession against a private individual, the appellants maintain that they have been in continuous, peaceful possession of the suit land since 1879. Under Section 110 of the Indian Evidence Act, 1872, such possession raises a presumption of ownership in their favor. Moreover, the plaintiffs' suit is barred by limitation under Article 65 of the Limitation Act, 1963, as they

failed to challenge the appellants' possession within the prescribed period.

(iv). **Necessity of Declaratory Relief:** The appellants contend that the plaintiffs should have filed a suit for declaration of title before seeking possession, especially when their ownership was in dispute. Without a declaratory decree establishing their title, the plaintiffs are not entitled to a decree for possession.

(v). **Conduct of the Plaintiffs:** The appellants highlight that the First Appellate Court had termed the plaintiffs as "land grabbers" who manipulated revenue records to claim ownership. The High Court, however, did not address these observations or the detailed reasoning provided by the First Appellate Court.

6. The arguments advanced on behalf of respondents by Shri Santosh Paul, learned Senior Advocate are summarized hereunder:

(i). **Admission of Plaintiffs' Title by the Defendants:** The respondents assert that the

appellants did not specifically deny their ownership of the suit property in their written statement before the Trial Court. By taking the plea of adverse possession, the appellants implicitly admitted the respondents' title. Under Order VIII Rule 5 of the Code of Civil Procedure, failure to deny an allegation of fact amounts to an admission.

(ii). **State Cannot Claim Adverse Possession:**

The respondents argue that the State cannot perfect title over private property through adverse possession against its own citizens. Allowing such a claim would be contrary to the principles of a welfare State and undermine citizens' constitutional rights.

(iii). **Permissive Possession by the State:**

The respondents contend that the appellants' possession of the suit land was permissive and not adverse. The Misal Hakiyat of 1879-80 (Exhibit DW10/1) indicates that the State's possession was conditional, described as "Bikhar Bahali Kaza," meaning till the existence of an orchard. Acts such as placing bitumen drums or constructing temporary

structures do not amount to adverse possession. The Trial Court rightly held that such acts do not constitute possession sufficient to establish adverse possession.

(iv). **Establishment of Ownership through**

Revenue Records: The respondents have established their ownership through continuous entries in the revenue records (jamabandis) from 1904-05 to 2019-20. Plaintiff No. 1 derived title through a registered sale deed dated 5th July 1960, and Plaintiff No. 2 through a sale deed dated 12th March 1973. Mutations were duly sanctioned based on these sale deeds. Revenue records are records of rights and are admissible evidence to prove ownership.

(v). **Burden of Proof Lies on Defendants:** Since the appellants did not deny the respondents' title, the burden was on the appellants to prove that they had become owners by adverse possession. The appellants failed to discharge this burden. The Trial Court correctly found that the appellants'

possession, if any, began in 1980 and was insufficient to establish adverse possession.

7. Having heard the arguments advanced by both parties and perused the records, the core issue before us is whether the High Court was correct in setting aside the judgment of the First Appellate Court and restoring the decree passed by the Trial Court in favour of the respondents (plaintiffs). The appellants challenge the High Court's decision on several grounds, which we shall address in their turn.
8. The appellants contention that plaintiff failed to prove their title and ownership is completely misplaced for the reasons and analysis made hereunder:
 - 8.1 We find this argument unconvincing for several reasons: In their written statement before the Trial Court, the appellants did not specifically deny the plaintiffs' ownership of the suit property. Instead, they primarily relied on the plea of adverse possession. Under Order VIII Rule 5 of the Code of Civil Procedure, 1908, allegations of fact not denied specifically are deemed to be

admitted. By asserting adverse possession, the appellants have impliedly admitted the plaintiffs' title.

8.2 The plaintiffs relied on jamabandi entries to establish their ownership. The jamabandi for the year 1969-70 (Exhibit P1) records the name of Shri Amin Lal as owner to the extent of half share. Revenue records are public documents maintained by government officials in the regular course of duties and carry a presumption of correctness under Section 35 of the Indian Evidence Act, 1872. While it is true that revenue entries do not by themselves confer title, they are admissible as evidence of possession and can support a claim of ownership when corroborated by other evidence.

8.3 The respondents have produced copies of registered sale deeds and mutation records before this Court, which were part of the additional documents filed with the counter-affidavit. Plaintiff No. 1, Shri Amin Lal, derived title through a registered sale deed dated 5th July 1960, and mutation No. 8329 was sanctioned on 20th April 1982. Plaintiff No. 2,

Shri Ashok Kumar, derived his title through a registered sale deed dated 12th March 1973, and mutation No. 8330 was sanctioned on 20th April 1982. These documents establish a chain of title and cannot be ignored.

- 8.4 The appellants did not dispute the plaintiffs' title in their pleadings or during the trial. The First Appellate Court's finding that the plaintiffs are not the true owners is based on conjecture and lacks evidentiary support. The appellants cannot now, at this appellate stage, challenge the plaintiffs' ownership without having raised a specific denial earlier.
9. The appellants' next submission that the burden of proof lay on the plaintiffs to establish their title is equally not borne out from the records. It is a well-settled principle that in a suit for possession based on title, the plaintiffs must establish their ownership. In the present case, the plaintiffs have done so by producing revenue records and, subsequently, the registered sale deeds and mutation entries. Furthermore, as the appellants failed to deny the plaintiffs' title specifically and instead relied on adverse possession, the burden

has shifted to the appellants to prove their adverse possession. In the present case, the plaintiffs have sought possession based on their title, which they have established through documentary evidence.

10. The appellants claim that due to their long and continuous possession of the suit property since 1879-80, they have perfected their title, is also not sustainable in law. However, it is a fundamental principle that the State cannot claim adverse possession over the property of its own citizens. In **Vidya Devi v. State of H.P**¹, this Court emphatically held that the State cannot be permitted to take the plea of adverse possession. The relevant paragraphs from this judgement are reproduced hereunder:

“12.9. In a democratic polity governed by the rule of law, the State could not have deprived a citizen of their property without the sanction of law. Reliance is placed on the judgment of this Court in *Tukaram Kana Joshi v. MIDC* [*Tukaram Kana Joshi v. MIDC*, (2013) 1 SCC 353 : (2013) 1 SCC (Civ) 491] wherein it was held that the State must comply with the procedure

¹ (2020) 2 SCC 569

for acquisition, requisition, or any other permissible statutory mode. The State being a welfare State governed by the rule of law cannot arrogate to itself a status beyond what is provided by the Constitution.

12.10. This Court in *State of Haryana v. Mukesh Kumar* [*State of Haryana v. Mukesh Kumar*, (2011) 10 SCC 404 : (2012) 3 SCC (Civ) 769] held that the right to property is now considered to be not only a constitutional or statutory right, but also a human right. Human rights have been considered in the realm of individual rights such as right to shelter, livelihood, health, employment, etc. Human rights have gained a multi-faceted dimension.

12.11. We are surprised by the plea taken by the State before the High Court, that since it has been in continuous possession of the land for over 42 years, it would tantamount to “adverse” possession. The State being a welfare State, cannot be permitted to take the plea of adverse possession, which allows a trespasser i.e. a person guilty of a tort, or even a crime, to gain legal title over such property for over 12 years. The State cannot be permitted to perfect its title over the land by invoking the doctrine of adverse possession to grab the property of its own citizens, as has been done in the present case.”

11. Allowing the State to appropriate private property through adverse possession would undermine the constitutional rights of citizens and erode public trust in the government. Therefore, the appellants' plea of adverse possession is untenable in law. The appellants' possession, as evidenced by the Misal Hakiyat of 1879-80 (Exhibit DW10/1), was permissive and conditional. The entry describes the possession as "Bikhar Bahali Kaza," meaning till the existence of an orchard. Such permissive possession cannot be the basis for a claim of adverse possession.
12. Furthermore, the acts relied upon by the appellants—such as placing bitumen drums, erecting temporary structures, and constructing a boundary wall in 1980—do not constitute adverse possession. Adverse possession requires possession that is continuous, open, peaceful, and hostile to the true owner for the statutory period. In this case, the appellants' possession lacks the element of hostility and the requisite duration.

13. The appellants last contention that the High Court overstepped its jurisdiction under Section 100 of the Code of Civil Procedure by reappreciating evidence and interfering with findings of fact also has no legs to stand. The High Court had framed substantial questions of law regarding whether the State can claim adverse possession against its own citizens and whether taking the plea of adverse possession implies admission of the plaintiffs' title. These are substantial questions of law that justify the High Court's interference. The High Court found that the First Appellate Court had ignored material evidence and legal principles, leading to a perverse judgment. Therefore, the High Court was justified in exercising its jurisdiction under Section 100 of the Code of Civil Procedure.
14. The findings of the First Appellate Court's judgment are flawed for various reasons. The court erroneously placed the burden of proving ownership on the plaintiffs, despite the defendants' admission of their title by pleading adverse possession. The court disregarded the jamabandi entries and other revenue records

without valid justification. The court's conclusion that the plaintiffs are "land grabbers" is not supported by evidence and appears to be based on conjecture. Therefore, the High Court rightly set aside the First Appellate Court's judgment, which suffered from legal infirmities and misappreciation of evidence.

15. In view of the above analysis, we find no merit in the appellants' contentions. The High Court's judgment is based on sound legal principles and correct appreciation of evidence. The plaintiffs have established their ownership of the suit property, and the State cannot claim adverse possession against its own citizens.

16. Accordingly, the appeal is dismissed.

.....**J.**
(VIKRAM NATH)

.....**J.**
(PRASANNA B.VARALE)

NEW DELHI
NOVEMBER 19, 2024