

**In the Court of Ekansh Kapil, Senior Civil Judge, Shimla,
 District, Shimla, HP.**

**Civil Suit No.: 379-1of 2019.
 CNR No. HPSH120028182019
 Registration No. 94/2019
 Instituted on. 19.11.2019
 Decided on : 29.08.2025.**

Sh. Budhi Ram, Son of Late Sh. Almu, R/o Village Farinda,
 P.O. Deola, Tehsil Sunni, District Shimla, H.P.

.....Plaintiff.

Versus

1. State of H.P. Through Assistant Collector 1st Grade Sunni,
 Tehsil Sunni, District Shimla, H.P.
2. Gram Panchyat Deola, through its Secretary Post Office
 Deola, Tehsil Sunni, District Shimla, H.P.
3. General Public.
4. Settlement Officer Settlement Division Shimla, H.P.

.....Defendants.

SUIT FOR DECLARATION.

For the plaintiff.	Sh. L.S. Thakur, Advocate.
For the defendants Nos.1,2 & 4.	Ms. Ruchika Khitta, ADA.
For the defendant No.3.	Already Exparte

JUDGMENT:-

The present suit for declaration has been filed by the plaintiff Budhi Ram seeking declaration to the

effect that his caste Koli and Got Shandil recorded in the Shjra Nasab (Genealogical Table) of revenue villages of Farinda, Dandi-Bagh and Ramhan be ordered to be corrected and the name of father of plaintiff be also ordered to be corrected Late Sh. Almu instead of Swarnu/Sarnu in the Shajra Nasab (Genealogical Table) of revenue villages of Bandi-Bagh and Ramhan.

2. Briefly stated the facts of the plaint as averred by the plaintiff are that the plaintiff is a bonafide resident of the above mentioned address and is owner in possession of the land comprising in revenue villages of Farinda, Dandi Bagh and Berti, Patwar circle Deola and Berti respectively, Tehsil Suni, District Shimla, H.P. It is alleged that the plaintiff has acquired the land in revenue village Farinda by registered Will No. 62/96 dated 02.08.1996 executed by one Smt. Sanehru, daughter of late Sh. Jiwanu, resident of village Farinda, Tehsil Sunni, District Shimla, H.P. The mutation of the above Will was attested in favour of the plaintiff vide mutation No. 34 dated 16.06.2009 at Deola by the Learned Assistant Collector II Grade, Tehsil Sunni, District Shimla, H.P. The plaintiff had moved an application addressed to the learned Collector Shimla District Shimla for the correction of his caste and Got as Koli and Shandil respectively. The above application was registered as Missal No.166/18 in the Court of learned Collector (Settlement), Kasumpati, Shimla who decided the same on 28.08.2019. The same was subsequently dismissed as withdrawn. It is averred that the plaintiff belongs to the scheduled caste Koli which has been notified by the H.P. State Government at Sr. No. 35 of the Schedule Caste and Schedule Tribes orders (amendment) Act,

1976 which came into force w.e.f. 27.07.1977. The plaintiff had obtained certificate No. 195 dated 14.08.1997 of scheduled caste Koli duly issued by the learned Tehsildar, Tehsil Sunni, District Shimla, H.P. It is averred that the caste of the plaintiff has been recorded in the Gram Panchayat Deola, Pariwar Register Nakal dated 09.01.2019 as Harijan which are required to be corrected as Koli i.e. Scheduled Caste. Further the name of the plaintiff's father has been recorded in the revenue record of villages Dandi and Ramhan as Late Sh. Swarnu/Sarnu instead of late Sh. Almu. It is averred that the correct name of the plaintiff's father is Almu as is evident from the school leaving certificate issued by the Head Master Government Primary School Gumma on 27.08.1983. It is averred that late Smt. Mathi was the legally wedded wife of late Sh. Almu son of late Sh. Dhaniala and the plaintiff was born on 05.12.1969 from the said wedlock. Smt. Mathi after the death of her first husband late Sh. Sarnu/Swarnu, married late Sh. Almu as her second husband. On the death of late Sh. Sawarnu his estate was inherited by Smt. Mathi and Sh. Puran Dass etc. On the death of late Smt. Mathi her estate was inherited by Puran Dass, Budh Ram, Kundal Lal, Smt. Chandu, Smt. Bimla and Smt. Kalu Devi vide mutation No. 32 which was attested on 13.06.2006 at place Khatnol, Pargana Chautha, Tehsil Sunni, District Shimla, H.P. by the learned Assistant Collector II Grade, Tehsil Sunni, District Shimla, H.P. As per the plaint, the cause of action accrued in favour of the plaintiff on 27.08.1983, when the School Leaving Certificate was obtained by the plaintiff on 14.08.1997 when the scheduled caste certificate was obtained on 13.06.2006, when the mutation No. 32 of revenue village

Dandi-Bagh was attested, it also accrued on 16.06.2009 when the mutation No. 34 pertaining to revenue village Farinda was attested, it then accrued on 09.01.2019 when the Nakal of Parivar register was obtained, it accrued on 28.08.2019 when the order by the learned Collector (Settlement) was passed and on 27.09.2019, when the copy of missal No. 166/18 was obtained by the plaintiff and finally it accrued on 11.11.2019 when the copy of mutation No.34 attested on 16.06.2009 was obtained by the plaintiff. It is averred that cause of action of the plaintiff is recurring till the date the entries in the revenue villages of Farinda, Dandi- Bagh, Ramhan and Gram Panchyat, Deola records are corrected by the competent authorities. It is averred that no other case on the same cause of action has been filed by the plaintiff in any other court in India. This Court has the territorial and pecuniary jurisdiction to try this suit as the plaintiff and the defendants reside under the territorial jurisdiction of this Court. The suit is filed within the period of limitation from the date of the last cause of action i.e. 11.11.2019. This Court has pecuniary jurisdiction to try the present suit. With these averments, it has been prayed that the suit of the plaintiff be decreed. The plaint is duly supported with an affidavit.

3. Upon filing of the suit service of the defendants was secured. Defendant No.3 i.e. General Public was proceeded against the exparte vide order dated 23.02.2024 whereas the defendants No. 1 & 2 contested the suit by filing separate written statements. Separate written statement has also been filed by the defendant No.4 i.e. Settlement Officer which was impleaded as defendant

subsequently vide order dated 30.08.2022

4. In the written statement filed by the defendants No.1, 2 and 4, preliminary objections as to cause of action, non compliance of Section 80 of CPC, suit being bad for non-joinder of necessary party i.e. Settlement Collector, Shimla, suit not been properly valued for the purpose of Court fee and jurisdiction, suit being barred by limitation and suppression of material facts from the Court have been taken. On merits, it has been admitted that the certificate No.195 dated 14.08.1997 certifying the plaintiff to be belonging to Schedule Caste had been issued by the then Tehsildar Sunni. Revenue record has also been admitted as correct but it has been averred that only the Collector Settlement can rectify the record of Shajra Nasab. It has also been admitted that the mutation No. 32 dated 13.06.2006 of Muhal Dandibag was attested and the the property of Mathi was inherited in favour of Puran Dass, Kundan Lal, Budh Ram, sons and Bimla daughter of Sawarnu. It has been averred in all the written statement that the suit of the plaintiff is barred by limitation as all the entries were well within the knowledge of the plaintiff. In the written statement filed by the defendant No.4 it has been specifically stated that the suit has been filed by the plaintiff after lapse of more then 29 years. All the other averments have been denied and dismissal of the suit have been prayed for. Written statements filed on behalf of the defendant No.1, 2 and 4 are duly supported with an affidavit.

5. The plaintiff thereafter, filed a replication, wherein he reaffirmed all the averments made in the plaint and denied those of the written statement.

6. From the pleadings of the parties, the following issues were framed on 12.10.2023:-

1. Whether the caste of the plaintiff is “**Koli**” and **Gotra** is “Shandil” and the name of the father of plaintiff is “ Almu” instead of Swarnu-Sarnu as alleged ? ...OPP.
2. If issue No.1 is decided in affirmative, whether the plaintiff is entitled to relief of declaration, as prayed for? ...OPP.
3. Whether the plaintiff is entitled to relief of mandatory injunction to get the aforesaid correction made in the revenue record and other documents, as prayed for? ...OPP.
4. Whether the plaintiff has no cause of action to file the present suit, as alleged? ...OPDs.
5. Whether the suit has been filed by the plaintiff without complying with the statutory requirement of Section 80 (1) of the CPC, as alleged?... OPDs.
6. Whether the suit is bad for non-joinder of necessary parties, as alleged? ...OPDs.
7. Whether the suit is not properly valued for purpose of court fee and jurisdiction, as alleged?...OPDs.
8. Whether the present suit is barred by period of limitation, as alleged ? ...OPDs
9. Whether the plaintiff has not approached this court with clean hand as he has suppressed the material facts from the Court, as alleged?...OPDs.
10. Whether the present suit is barred by period of limitation, as alleged ? OPDs

11 Relief.

7. For the reasons to be recorded hereinafter, my findings on the aforesaid points are as under:-

Issue No. 1	Partly Yes.
Issue No. 2	Yes
Issue No. 3	Yes
Issue No. 4	No.
Issue No. 5	No.
Issue No. 6	No.
Issue No. 7	No.
Issue No.8	No.
Issue No. 9	No.
Issue No. 10	No.
Relief.	Suit of the plaintiff is Partly Decreed , as per operative part of the judgment.

EVIDENCE ON RECORD.

8. In plaintiff's evidence, the plaintiff examined a total of 6 witnesses.

9. PW-1 plaintiff Budhi Ram stepped into the witness box and tendered in evidence his duly sworn in affidavit as Ext. PW1/A. He also tendered in evidence the copy jamabandi as Ext.PW1/B, copy jamabandi as Ext.PW1/C, copy jamabandi as Ext.PW1/D, copy jamabandi as Ext.PW1/E, Nakal Sajra as Ext.PW1F, copy of Intkal as Ext. PW1/G, copy jamabandi as Ext.PW1/H,copy of Sajra Nasab as Ext.PW1/J, copy of Intkal as Ext.PW1/K, copy jamabandi as Ext.PW1/L and copy of Sajra Nasab as Ext. PW1/M. In his cross-

examination conducted by the learned ADA appearing for contesting defendants, he stated that he has two brothers and three sisters. He admitted that whenever the settlement operation takes place in the village, its information is given to the residents of the area. He also stated that the record is prepared in their presence and the official work is usually conducted as per the rules. He admitted that in case there is any mistake in the record of settlement, the application for correction is moved before the department. He admitted that he had moved an application for correction (Ext.D-1) before the District Collector, Shimla which bears his signatures. He admitted that he had withdrawn the said application by stating that he does not want to get any correction done. He stated that he does not remember that he had moved an application for rectification of the revenue record. He admitted that in order to get any correction in the record, the application has to be filed before the revenue authorities. He admitted that thereafter settlement had taken place at Mohal Farinda, Tehsil Sunni in the year 1990. He further admitted that since 1990 he did not move any application for correction and also not file any suit for the same. He admitted that the entries in the Pariwar register are made as per the details provided by the family. Apart from this he denied all the suggestions made to him and also denied that he was giving a false testimony.

10. PW2 Kewal Ram stepped into witness box and stated that he has brought the requisitioned record i.e. Notification pertaining to Schedule Caste & Schedule Tribe (Amendment) Act 1976 which came into force on 27.07.1977. He stated that at Sr. No. 37 of the said notification, Koli caste

has been mentioned as one of the Schedule Caste. He admitted that this notification does not mention "Harijan" as a Schedule caste. He tendered in evidence the copy of said notification as Ext. PW2/A. In his cross-examination by the learned ADA for the contesting defendants, he stated that the notification brought by him has been downloaded on the computer by him prior to obtaining the print out.

11. PW3 Lata Thakur stepped into witness box and stated that she has brought the requisitioned record of Pariwar register. She tendered in evidence the copy of Pariwar register as Ext. PW3/A after comparing it with the original. She admitted that in column No.6, the caste of the plaintiff has been mentioned as Harijan and the village's name has been mentioned as Devla instead of Farinda. In her cross-examination by the learned ADA for the contesting defendants, she stated that she has been posted as a Secretary in the Gram Panchyat Deoli since July 2023. She admitted that she has not made the entries in the revenue record and she has only brought the register today.

12. PW4 Jitender Kumar stepped into witness box and stated that he has brought the requisitioned record and as per record at Sr. No. 195 of the register, caste certificate dated 14.08.1997 has been issued in the name of Budhi Ram, S/o Sh. Almu Ram, R/o Village Dendhi Baag, Tehsil Sunni, District Shimla, H.P. He tendered in evidence the photocopy of this certificate as Ext. PW4/A. In his cross-examination by the learned ADA for the contesting defendants, he admitted that as per the record brought by him Koli caste has not been

mentioned and only Schedule caste has been mentioned in the certificate.

13. PW5 Bal Krishan stepped into witness box and stated that he has been posted at GPS Gumma since 07.11.2023 and the requisitioned record is no longer available with the school.

14. PW6 Ulah Khan stepped into witness box and stated that he has brought the requisitioned record i.e. admission/withdrawal register w.e.f. 1973 to 1992. He stated that in the said register at Sr. No.532, name of Budhi Ram has been registered and his father name has been recorded as Almu Ram and his caste is recorded as Koli whereas his address is of Village Rumhan, P.O.Gumma, Tehsil Sunni, District Shimla and he was studying in the school in 5th standard and his name has been cut on 07.09.1981. In his cross-examination by the learned ADA for the contesting defendants, he admitted that he was not posted at the school when the entries were made in the school. He also admitted that there is no stamp of any school present in the aforesaid entries.

15. Vide separate statement dated 04.03.2024 the learned counsel for the plaintiff closed the defendant's evidence

16. In defendants evidence, 3 witnesses have been examined.

17. DW-1 Smt. Sharmila stepped into the witness box and stated that she has brought the requisitioned record and as per the record, on 07.09.2018 an application was moved

by the plaintiff for correction of his caste before the Assistant Collector 1st Grade, Tehsil Sunni. She stated that the said application was dismissed on 28.08.2019 and stated that the original record pertaining to the plaintiff can be obtained from the D.C. office and concerned Patwari Mohal. In his cross-examination by the learned counsel for the plaintiff, he admitted the suggestion that in the reply filed by the defendant No.1 on 18.01.2021 it has been mentioned in para No.5 that the correction in Sajra Nasab can be made by the Assistant Collector. He stated that the aforesaid record has been returned to Tehsil Sunni and no longer available with the department.

18. DW-2 Smt. Anuradha stepped into witness box and stated that she has brought the requisitioned record i.e. original jamabandi and tendered it in evidence as Ext. D-1/DW2. She also tendered in evidence the copy of Sajra Nasab as Ext.D-2/DW2. She stated that as per the record, the plaintiff's father's name has been recorded as Sarnu. In her cross-examination by the learned counsel for the plaintiff, she denied the suggestion that the name of the plaintiff's father has been incorrectly entered as Sarnu instead of his correct name i.e. Almu. She denied the suggestion that she was giving a false testimony.

19. DW-3 Tej Prakash has stated that he has brought the requisition record of Mohal Dandi-Baghl pertaining to the original jamabandi. He stated that as per the record (Ext.D1/DW3) Sajra Nasab (Ext.D2/DW3), Jamabandi(Ext. DX-3/DW3) and Sajra Nasab (Ext. D-4/DW3) are correct as per the record as the Caste of the plaintiff has been recorded as Others in Mauja Farinda In his cross-examination, he denied

the suggestion that the father's name of the plaintiff has been wrongly entered in the revenue record and his father's correct name is Almu. He admitted that as per the Sajra Nasab pertaining to Mauja Dandi Bagh for the year 2016-17 caste and Gotar of the plaintiff has been recorded as Koli. He denied the suggestion that he was giving a false testimony.

20. This is the entire evidence led by the defendants which was closed by the order of the Court dated 012.04.2025.

21. This is the gist of entire evidence led by the parties. The relevant part of the testimonies of the witnesses shall be reiterated and discussed during the course of recording reasons for findings.

REASONS FOR FINDINGS

ISSUES NO. 1 to 3.

22. All these issues have been taken up together being intrinsically interlinked and interconnected and also because they require common appreciation of facts and evidence.

23. The onus to prove these issues was on the plaintiff. The plaintiff in order to prove that his caste is Koli (Schedule Caste) and his Got is Shandil has placed reliance on his testimony recorded on oath as well as testimony of PW4 Jitender who has tendered in evidence the copy of the certificate of Schedule Caste as Ext.PW4/A. A perusal of the this document shows that the plaintiff's father name has been stated to be Almu and he has been certified to be belonging to Schedule Caste i.e. Koli. The plaintiff has also placed on record and tendered in evidence copy of Pariwar register being

maintained at Gram Panchayat Dewla which shows that in the column No.6, the name of the Caste to which the plaintiff belongs is recorded as Harijan. A perusal of the Ext. PW2/A shows that out of 56 Schedule Castes notified by the Government of Himachal Pradesh, the Caste Koli has been mentioned at Sr. No.35. The said notification also shows that Harijan has not been identified as a Schedule Caste and is only a genetic term coined by the father of the nation Mahatma Gandhi and used to denote various Schedule Castes. Accordingly, the plaintiff has although succeeded in proving that he belongs to a Schedule Caste i.e. Koli but there is nothing on record to show that his Gotra is Shandil. The plaintiff has also claimed that his father's name has been incorrectly recorded in the revenue village of Dandi Bag, Patwar circle Dewla and revenue village Rehman, Patwar circle Berti, Tehsil Sunni, District Shimla. In support of this claim, the plaintiff has examined PW6 Ulah Khan as a witness who testified on oath before the Court that in the admission and withdrawal register pertaining to years w.e.f. 1973 to 1992, the name of the plaintiff Budhi Ram has been recorded at Sr. No.532 and his father's name is recorded as Almu Ram, caste Koli, Hindu, resident of Village Ramhan, P.O.Gumma, Tehsil Sunni, District Shimla, H.P. This claim of the plaintiff is buttressed by the fact that the name of the plaintiff's father has been correctly recorded as Almu Ram in the copy of Pariwar Register (Ext.PW3/A). The sole objection raised to the claim of the plaintiff by the contesting defendants is that at the time of settlement, revenue record is prepared by the authority as per the information provided by the residents of village about their family but since

the plaintiff was born out of wedlock of Mathi Devi and father of the plaintiff late Sh. Almu and after the death of Almu, Smt. Mathi took Swarnu/Sarnu as her second husband, this could have led to the incorrect recording of the father's name of the plaintiff as Swarnu/Sarnu in the revenue record instead of late Sh. Almu Ram. Accordingly, the plaintiff has also succeeded in proving that his father's name is Almu Ram and not Swarnu/Sarnu. As such, issue No.1 is partly answered affirmative whereas issues No. 2 and 3 are answered in affirmative.

Issues No. 4.

24. The onus to prove these issue was on the defendant but apart from taking preliminary objections neither any evidence nor any arguments have been put forth and accordingly this issue is answered in the affirmative.

Issues No. 5.

25. The onus to prove this issue was on the contesting defendants as they have claimed that the plaintiff did not comply with the statutory requirement of Section 80 of CPC but a perusal of order dated 16.03.2020 present on the Court file shows that at the time of filing of the suit, the application under Section 80 of CPC filed by the plaintiff was allowed and the requirement of mandatory service of defendants under Section 80 of CPC was dispensed with. As such this issue is answered in the negative.

Issues No. 6, 7 & 9.

26. The onus to prove these issues was on the defendants but apart from taking preliminary objections neither any evidence nor any arguments have been put forth by the

defendants to prove these issues and accordingly all these issues are answered in the negative.

Issues No. 8 and 10.

27. Inadvertently two issues regarding the suit being barred by limitation have been framed. As such, both of them are being taken together.

The plaintiff has claimed that he has a recurring the cause of action which lastly accrued in his favour on 11.11.2019 when he came to know of the mutation No.34 attested on 16.06.2009. Since the plaintiff has claimed that this is the date of knowledge of the said mutation, the period of limitation will be taken to have commenced from the said date and it was for the defendants to prove that the plaintiff was having the knowledge of all these irregularities in the revenue record much prior to 11.11.2019 but the same has not been done. Accordingly both these issues are answered in the negative.

RELIEF.

28. As a sequel to my findings on the issues above, the suit of the plaintiff is ***partly decreed***. It is hereby declared that the plaintiff Budhi Ram belongs to Schedule Caste i.e. Koli. It is further declared that the father's name of the plaintiff is Almu Ram and not Swarnu/Sarnu. The defendants are hereby directed by way of a mandatory injunction to make the necessary corrections in the records at villages of Farinda, Dandi-Bagh patwar circle Dewla and and village Ramhan, Patwar circle Berti, Tehsil Sunni, District Shimla, H.P. However, in the facts and circumstances of the case, there is no order as to costs. Decree sheet be prepared

accordingly. File after due completion be consigned to the record room.

Announced and signed in the open Court today on this 29th day of August, 2025.

(Ekansh Kapil)
Senior Civil Judge, Shimla,
District Shimla, H.P.

S.V.

Form-A**List of Witnesses**

Sr. No.	Name of Witness.	Whether the witness of Plaintiff or defendant.
PW-1	Sh. Budhi Ram	Plaintiffs witness.
PW-2	Kewal Ram	-do-
PW-3	Smt. Lata Thakur	-do-
PW-4	Sh. Jitender Kumar	-do-
PW-5	Sh. Bal Krishan	-do-
PW-6	Sh. Ulah Khan	-do-
DW-1	Smt. Sharmila	Defendant's witness

From-B**List of Exhibits.**

Exhibit.	Date of Exhibit	Description of Exhibit.
Ext. PW-1/A	02.01.2024	Affidavit
Ext. PW-1/B to		
Ext. PW-1/E	-do-	Copy of Jamabandi
Ext. PW-1/F	-do-	Nakal Sajra
Ext. PW-1/G	-do-	Copy of Intkal
Ext. PW-1/H	-do-	copy of Jamabandi
Ext. PW-1/J	-do-	Copy of Nakal Sajra
Ext. PW-1/K	-do-	Copy of Intkal
Ext. PW-1/L	-do-	Copy of Jamabandi
Ext. PW-1/M	-do-	Copy of Nakal Sajra
Ext. PW-2/A	02.01.2024	Copy of Rules
Ext. D-1/DW-2	02.04.2025	Jamabandi
Ext. D-2/DW-2	-do-	Sajra Nasb

Ext. D-1/DW3 &		
Ext. D-2/DW3	-do-	Sajra Nasab
Ext. D-3/DW3	-do-	Copy of Jamabandi
Ext. D-4/DW3	-do-	Sajra Nasab
Ext. D-1	02.01.2024	Copy of Order.
Ext. D-2	-do-	Copy of statement

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(Ekansh Kapil)
Senior Civil Judge, Shimla,
District Shimla, H.P.

S.V.