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

RSA-1892-2023 (O&M)
Date of decision:02.09.2026

Parminder Singh

....Applicant-appellant

Versus

Umesh Kumar

....Respondent

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Ramesh Sharma, Advocate,
for the applicant-appellant.

HARSH BUNGER J. (ORAL)

CM-6717-C-2023

Application (CM-6717-C-2023) is filed seeking condonation
of delay of 26 days in filing the regular second appeal (RSA-1892-2023).

Keeping in view the reasons mentioned in the instant
application (CM-6717-C-2023), the same is allowed and delay of 26 days in
filing the regular second appeal (RSA-1892-2023) is condoned.

The instant application, i.e. CM-6717-C-2023, is disposed of in
the aforesaid terms.

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1. For convenience, the parties herein are being addressed as per
their status in the original suit.

1.1 This is the plaintiff's second appeal challenging the judgment
and decree dated 11.09.2017 passed by the learned Additional Civil Judge



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(Senior Division), Fazilka as well as the judgment and decree dated 30.09.2022 passed by the learned Additional District Judge, Fazilka.

2. Briefly, plaintiff-Parminder Singh filed a suit for perpetual injunction against defendant-Umesh Kumar on the plea that the land measuring 59 kanal 19 marla comprised in khewat No.259 as per the jamabandi for the year 2009-10 (as detailed in the plaint), situated at village Karni Khera, Tehsil and District Fazilka, is in the ownership of State of Punjab (Agrarian Department). The plaintiff claimed his peaceful cultivating possession over the said land as Gair Marusi in his own rights for the last five years without any hindrance from any side. It is the case of the plaintiff that he alongwith Lal Chand have constructed their respective residential accommodation over the land comprised of Rect. No.73, Killa No.20 and his possession of the accommodation is depicted as red colour in the site plan attached. The plaintiff claimed that he had planted wheat crop in Rabi 2014 in the suit land except the area under residential accommodation, thereafter, the plaintiff is stated to have submitted an application for correction in khasra girdawari against State of Punjab as well as defendant-Umesh Kumar, wherein the defendant suffered a statement in favour of the plaintiff and after spot inspection, the case was decided in the favour of the plaintiff by the Assistant Collector 2nd Grade, Fazilka by correcting the entries in the khasra girdawari vide order dated 20.02.2009. It is further averred that the defendant-Umesh Kumar preferred an appeal against the aforesaid order dated 20.02.2009, which was accepted by the learned Collector, Fazilka vide order dated 16.03.2010. Thereafter, the plaintiff filed an appeal against the



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aforesaid order dated 16.03.2010, which was accepted by the learned Commissioner, Ferozepur Division, Ferozepur and thereafter the matter was filed before the learned Financial Commissioner.

2.1 It is the pleaded case of the plaintiff that earlier he had filed a civil suit for declaration, which was withdrawn as the compromise was effected between the parties. It is stated that there is an electricity connection installed in the Dhani, which proves the possession of the plaintiff and that the defendant has no right, concern or connection with the suit land including Dhani. It is averred that the defendant has extended constant threats to disturb the possession of the plaintiff over the suit property including Dhani and despite repeated requests of the plaintiff, the defendant has refused to admit the claim and title of the plaintiff. Accordingly, the suit was filed.

3. Upon issuance of notice in the suit, the defendant-Umesh Kumar appeared and opposed the claim of the plaintiff by filing his written statement, wherein various preliminary objections were raised. It was stated that the plaintiff had earlier filed a suit for permanent injunction against the defendant and his brother from interfering into his possession over the suit land, however, the same was dismissed on 08.06.2011 by the learned Civil Judge (Junior Division), Fazilka. It is stated that the plaintiff has not mentioned as to how and when he entered upon the suit land and in what capacity he was cultivating the suit land. The stand of the plaintiff that the defendant had suffered a statement in his favour in the proceedings relating to correction of khasra girdawari was not correct. It was further stated that



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the learned Financial Commissioner vide order dated 11.02.2014 has already set aside the order passed by the learned Commissioner, however, the plaintiff has intentionally not made reference to the same in the suit. It is also categorical case of the defendant that plaintiff used to help the defendant in the cultivation of the suit land as a *Siri* (farm labour), therefore, he cannot have any independent right in the suit land. Other averments in the plaint were denied and prayer for dismissal of the suit was made.

4. The plaintiff filed replication to the written statement filed by the defendant and from the pleadings of the parties, the learned trial Court framed the following issues:-

- “1. *Whether the plaintiff is entitled to perpetual injunction as prayed for? OPP*
2. *Whether the plaintiff has concealed the material and true facts from the Court? OPD*
3. *Whether the suit is not maintainable in its present form? OPD*
4. *Whether the suit is bad for non-joinder of necessary parties and cause of action? OPD*
5. *Whether the plaintiff is estopped by his own act and conduct from filing the present suit? OPD*
6. *Relief.”*

5. Thereafter, the parties led their respective evidence (oral as well as documentary) on the aforesaid issues.

6. Learned trial Court, vide judgment and decree dated 11.09.2017, dismissed the suit filed by the plaintiff.



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7. Feeling aggrieved, the plaintiff preferred an appeal before the learned Additional District Judge, Fazilka, which has also been dismissed vide judgment and decree dated 30.09.2022.

8. In the aforementioned facts and circumstances, the present regular second appeal has been filed before this Court.

9. I have heard learned counsel for the appellant and perused the records with his able assistance.

10. In the present case, the plaintiff is claiming himself to be in possession of the suit land as gair marusi, whereas the claim of the defendant is that the plaintiff was only a *Siri* (farm labour), who was assisting the defendant in the cultivation of the suit land and he does not have any independent right in the suit land.

10.1 Learned trial Court upon appreciation of facts, pleadings as well as the evidence available on record, came to the conclusion that in the proceedings before the learned revenue authorities, defendant-Umesh Kumar had suffered a statement that the plaintiff was working as a *Siri* under him on share basis and he has no objection if the revenue entries are changed. Learned trial Court has further observed that the defendant nowhere admitted the claim of the plaintiff that he is in possession of the suit property as gair marusi, rather he has specifically stated that the plaintiff is working as a *Siri* (farm labour) under him. Learned trial Court has further referred to the cross-examination of the plaintiff, who appeared in the witness box as PW1; wherein he has admitted that he was working as a *Siri* (farm labour) under the defendant. It has been observed that the *Siris* are the persons, who



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work on the land and they are employed on salary basis and sometimes on share basis. It has been further observed that had the plaintiff been in possession of the suit land as gair marusi then the revenue record would have contained an entry in his faovur in that regard. It has been further held that the plaintiff is claiming possession on the basis of an order dated 20.02.2009 passed by the learned Assistant Collector 2nd Grade, Fazilka, however, the said order already stands set aside by the learned Financial Commissioner (Revenue), Punjab, which has been proved on record as Ex.D44 and the matter has been remanded for fresh consideration.

10.2 In view of the evidence available on record, learned trial Court held that the plaintiff had failed to prove that he was in possession of the suit property as gair marusi. It has further been held that the plaintiff has filed the suit by concealing material facts with regard to the previous litigation, wherein his earlier suit filed against the defendant-Umesh Kumar was dismissed. The plaint of the previous suit had been proved as Ex.D46 and the certified copy of the judgment and decree passed by the learned Civil Judge (Junior Division), Fazilka had been proved on record as Ex.D47 and Ex.D48. Based upon the findings returned on various issues, the learned trial Court dismissed the suit of the plaintiff. The findings returned by the learned trial Court have been further affirmed by the learned First Appellate Court vide judgment and decree dated 30.09.2022, by observing as under:-

“14. As is clear from the such pleaded case and supportive evidence of the appellant, he is claiming himself to be owner in possession of the suit land as Gair Marusi but his such plea has been contradicted by himself during his cross-examination



when he admitted himself to be cultivating the land in question as Siri of the respondent. Even though the appellant has claimed himself to be in possession of the suit land since 2004 but his this plea does not stand corroborated by any record/document on file. The name of appellant was incorporated in the revenue record merely on the basis of order dated 20.02.2009 Exhibit P1 passed by the Court of Sh. Subhash Chander Khatak Tehsildar-cum- Assistant Collector II Fazilka, but in his evidence respondent has placed and proved on file copy of order dated 11.02.2014 passed by Shri N.S.Kang, IAS, Financial Commissioner (Revenue), Punjab vide which the said order Exhibit P1 alongwith subsequent order of Divisional Commissioner was set aside and the matter was remanded back for fresh consideration after giving opportunity to the representative of Government which is owner of the land in question. In this view of the matter the very foundation of the plea of the appellant being in possession of the suit land on the basis of order Exhibit P1 falls flat as the said order was set aside. So far as the contention of appellant with regard to his being in possession of said land is concerned, there is no other document on file to support such plea much less in his capacity as Gair Marusi hence, the appellant has failed to prove his such plea.

15. So far as the question of concealment of material facts having been observed by the trial court is concerned, from the very inception of proceedings through his plaint, the appellant has disclosed the decision of an earlier civil suit for declaration between him and the respondent which is stated to have been dismissed as withdrawn being compromised. To the contrary in his evidence, the respondent has placed and proved on record copy of judgment and decree Exhibit D47 and Exhibit D48 respectively both dated 08.06.2011 passed by the Court of Shri



Aashish Saldi, Civil Judge (Junior Division), Fazilka showing the dismissal of an injunction suit having been filed by the appellant on merits. The appellant has not placed and proved on file any document regarding the alleged dismissal of the suit having withdrawn on the basis of compromise as such, the trial court has rightly observed the concealment of such material facts by him from the notice of the Court. Since the appellant has failed to prove himself to be in possession of the suit land as Gair Marusi and he is also found to have concealed material facts from the Court, the issues No.1 & 2 have been rightly decided against the appellant by the trial Court more specifically in view of the fact that the relief of injunction is an equitable relief.

16. This Court has carefully taken into consideration the findings of the trial Court as more specifically recorded under the common heading of issues No.1 & 2. On such careful consideration, this Court has not found any infirmity in the said findings much less any non appreciation of evidence and material on file, so as to justify any interference in those findings of trial court by this Court”

11. Before this Court, learned counsel for the present appellant has failed to dislodge the findings/observations made by the learned Courts below. It has not been shown as to how the findings returned by the learned Courts below are either perverse or illegal or based on misreading or mis-appreciation of evidence.

12. Having considered the totality of circumstances, I am of the view that the findings returned by the learned Courts below are based upon proper appreciation of facts, pleadings as well as evidence on record, which does not call for any interference. No question of law much less, a



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substantial question of law arises for adjudication in this regular second appeal.

13. Resultantly, the instant regular second appeal fails and same is accordingly, dismissed.

14. All the pending application(s), if any, shall also stand closed.

02.09.2026
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(HARSH BUNGER)
JUDGE

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