



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

203

**RSA-482-1999 (O&M)
Date of decision:17.04.2026**

GHANSHAM DAS

...APPELLANT

VERSUS

SUNDER SINGH

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. L.S. Lakhanpal, Advocate
for appellant.

Mr. Amit Jain, Senior Advocate with
Ms. Nikita Sharma, Advocate
for respondent.

PARMOD GOYAL, J. (ORAL)

Appellant-plaintiff is aggrieved by impugned judgment and decree dated 01.02.1992 passed by Learned Sub Judge, 1st Class, Fatehbad, whereby suit for possession was dismissed and by judgment and decree dated 10.10.1998 passed by learned Additional District Judge, Hissar, whereby first appeal preferred by appellant-plaintiff was also dismissed.

2. In the suit for possession, appellant-plaintiff had claimed that he is owner of suit property and respondent-defendant was given cultivating possession as a servant to cultivate land on behalf of appellant-plaintiff. It was the case of appellant-plaintiff that respondent-defendant was employed as his servant to look after the suit land on payment of monthly salary of Rs.350/- per month through one Prem Swarup. It was also claimed that respondent-defendant was also provided with residential house built in khasra No.192/1 but after death of Prem Sawrup, respondent-defendant in collusion with clerks of appellant-plaintiff forged the receipts regarding the

payment of *batai* to claim his status as tenant. It was the case of appellant-plaintiff that earlier a civil suit titled 'Sunder Singh Vs. Ghasham Dass' for declaration was preferred by respondent-defendant which was dismissed as withdrawn, after dismissal of application filed by respondent-defendant seeking interim injunction. It was further asserted by appellant-plaintiff that by colluding with revenue authorities, respondent-defendant has succeeded in getting his name entered in revenue records as tenant at will of 1/3rd *batai* and said entries so recorded in revenue record i.e. *khasra girdawaris* are without any notice to the appellant-plaintiff and not binding upon his rights. Accordingly, prayer for possession of suit property was made.

3. Respondent-defendant had contested the suit by placing reliance upon *khasra girdawaris* showing him to be *gair marusi* on 1/3rd *batai* and also upon receipts issued on behalf of appellant-plaintiff regarding receipt of *batai* . Respondent-defendant further asserted that house was constructed by him after spending Rs.25,000/- in which he was residing. Respondent-defendant claimed his possession being tenant since the year 1983. Therefore, maintainability of suit was challenged and dismissal of suit was prayed for by respondent-defendant.

4. Both the Courts after considering the respective cases of parties had concluded that appellant-plaintiff has failed to prove that possession of respondent-defendant was that of an employee (licencee) as no evidence except for statement of general power of attorney of plaintiff was placed on record. Learned Courts below had accepted the receipts relied upon by respondent-defendant as well as entries made in *khasra girdawaris* after appreciating evidence led by parties.

5. Judgment of learned First Appellate Court clearly shows manner in which evidence led by both the parties was appreciated. For ready reference, relevant paragraphs of findings of learned Appellate Court is reproduced hereunder:-

“11. The admitted case of the parties is that the defendant was in cultivating possession over the suit land and the sum total of the evidence available on the file leads me to an irresistible conclusion that his possession was that of a tenant. I am in complete agreement with the view taken by the learned Trial Court that the core controversy between the parties is narrowed down to a limited sphere if the possession of the defendant over the suit land was that of a tenant at will on payment of Batai or his possession was unauthorised and liable to hand over the possession. Since the land in dispute is agricultural land, therefore, in order to ascertain its true nature, one has to look into the entries appearing in the revenue record pertaining to the suit land. Perusal of the copy of Jamabandi for the year 1983-84 Exhibit P5, copies of Khasra Girdawaris Exhibit P6 and P7 show that the plaintiff is in cultivating possession over the suit land. Perusal of the copy of Jamabandi for the year 1988-89 Exhibit D.15, copies of Khasra Girdawaris Exhibit D16 and Ex.D17 shows the cultivating possession of the defendant over the suit land as gair-maurusi on payment of 1/3 rd batai-tehai vide rapat No.119 dated 4.12.91 as per the order of Assistant Collector Iind Grade. Now, the question arises as to whether the entries in the copies of Khasra Girdawari showing the defendant in cultivating possession of the suit land as gair-maurusi tenant on payment of batai-tihai qua the appellant are incorrect, liable to be set aside and not binding on the rights of the appellant for want of notice to the concerned party or for want of following the instructions of Financial Commissioner, Haryana, Chandigarh as alleged by

the appellant. The “onus” to prove this fact was upon the appellant, but the appellant has simply examined Anil Kumar Tayal PW-1, who is the general power of attorney of appellant and no other evidence is there on the file except the “self serving” statement of Anil Tayal PW-1. On the other hand, stand of the defendant is that the entries in copies of khasra girdwari were rightly changed in the name of the defendant after hearing the concerned parties and after following the due procedure laid down by the revenue authorities. In order to prove this, defendant has examined Kewal Krishan Office Kanungo, who as DW-1 stated that report dated 14.11.91, the certified copy of which was Ex.D1 was seen by him and according that defendant was found to be in possession over the suit land. Giran Parkash, Naib Tehsildar as DW6 stated that the application for correction of Khasra Girdwari dated 30.11.91 was received, upon which he inspected the site and made report regarding spot inspection was Ex.D1 and copy of order was Ex.DB. During cross-examination, he stated that a notice was issued to the parties concerned by Girdwar Halqa. He had called the neighbour and he also made verification at the site after seeing the receipts. Hari Parkash Patwari Halqa DW8 stated during his examination that when the spot was inspected by Kanungo and Naib Tehsildar, he was with them. He made the report after visiting the site and after his verification, the entry of batai-tehai in the name of defendant as gair-maurusi over the suit land was made.

12. Brij Mohan Sharma when examined as DW-2 has duly proved the receipts showing the payment of Batai and according to him he was employed as a clerk in the employment of Prem Sawrup Bansal during the period 1984 to 1985 to look after his lands. I find no force in the submissions made by Sh.S.K.Sardana, learned counsel for the appellant that these receipts were forged out and came into existence when Brij

Mohan was out of employment. If the material on record is evaluated independently, I find that there is a preponderance of evidence in favour of the defendant that he was in possession over the suit land in his capacity as a tenant and it matters little if his previous/civil suit was dismissed. PW-1 Anil Tayal has admitted in his cross-examination that Ghansham Dass, the owner of the land, was residing at Delhi engaged in business and he was looking after his lands since the year 1972-73. At present one Darbari Lal had been appointed as clerk to look after the lands and Ghansham, the owner of the land seldom Fatehbad to collect the rent or Batai. Brij Mohan Sharma is found to have been working as a Clerk in the year 1984 and similarly Kalam Singh is also found to have been working as a Munshi with him during the period 1989-90.”

6. Perusal of records goes to show that respondent-defendant had relied upon receipts vide which *batai* was paid. In order to prove receipts, respondent-defendant had duly examined the Manager of appellant-plaintiff namely Brij Mohan as DW-2 and both the attesting witnesses to the receipts. A specific question was made to the sole witness PW1-Anil Kumar Jayal examined by appellant-plaintiff i.e. general power of attorney holder regarding employment of Brij Mohan and Kalam Singh under the appellant-plaintiff who had allegedly issued the receipts (Ex.D2, Ex.D3, Ex.D5 and Ex.D6) in favour of appellant-plaintiff showing receipt of *batai*. In cross-examination, PW-1 had duly admitted that both the managers who had signed the receipts showing payment of *batai* were under the employment of appellant-plaintiff.

7. In view of this factual position, I do not find any error in the findings of both the learned Courts below. Both the learned Courts below

have rightly relied upon receipts showing payment of rent to appellant-plaintiff. On the other hand, appellant-plaintiff has failed to prove that respondent-defendant ever remained under employment of appellant-plaintiff or he was paid Rs.350/- per month or his possession was that of licensee and not that of tenant. The appreciation of evidence by both the Courts therefore, cannot be faulted with. No other question of fact or law has been raised by either of the parties.

8. Faced with the above conclusion, learned counsel for appellant-plaintiff submits that he be allowed to seek eviction in accordance with law. The right to seek eviction of tenant in accordance with law always vest with landlord and therefore the appellant-plaintiff is free to initiate appropriate proceedings for eviction in accordance with law.

9. In view of above, present appeal is dismissed.

10. Pending application(s), if any, stand disposed of.

(PARMOD GOYAL)
JUDGE

17.04.2026

Sunil Chander

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>