

135 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-2384-2026 (O/M)

Date of decision : 03.07.2026

Prabhjot Kaur and another

..... Appellants

Versus

Harjinder Kaur and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Hardik Ahluwalia, Advocate
for appellants.

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HARSH BUNGER, J. (ORAL)

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

2. Appellants/defendants have filed the instant Regular Second Appeal, challenging judgment and decree dated 21.04.2023, passed by learned Civil Judge (Junior Division), Ludhiana; whereby a suit for mandatory injunction, filed by respondents/plaintiffs for directing appellants/defendants to surrender back possession of suit property, was decreed.

2.1 A further challenge has been made to judgment and decree dated 10.04.2026, passed by learned Additional District Judge, Ludhiana; whereby an appeal filed by appellants/defendants against learned trial Court's judgment and decree dated 21.04.2023, has been dismissed.

3. Briefly, respondents/plaintiffs filed a suit for mandatory injunction directing appellants/defendants to surrender back the vacant

possession of one room on the ground floor and two rooms on the first floor, forming part of property/House No. 3928, Street No. 4, Hargobindpura, Sherpur Kalan, Ludhiana (as stated in plaint), inter alia, on the plea that the property in question was earlier owned by one Smt. Mahinder Kaur wife of Shri Sunder Singh, who had purchased the same, vide registered sale deed dated 13.02.1971. It was further pleaded by respondents/plaintiffs that said Smt. Mahinder Kaur had transferred the aforesaid property in the name of respondents/plaintiffs, vide registered transfer deed dated 06.05.2016 and on the strength of said transfer deed, all respondents/plaintiffs were the owners in possession of property in question. It was still further pleaded that appellant/defendant No. 1 was daughter-in-law and appellant/defendant No. 2 is son of brother of respondent/plaintiff, namely, Paramjit Singh, who had been permitted to have their residence in the aforesaid property for some time. It was categorically pleaded by respondents/plaintiffs that possession of appellants/defendants was permissive and said permission was revoked, vide deed dated 08.07.2015.

3.1 It was averred that Smt. Mahinder Kaur also published this fact in different newspapers and even registered notice dated 23.12.2016 was got served upon appellants/defendants. It was also averred in the suit that appellants/defendants had no right to retain possession of the portion in their occupation after the termination of their permission. Accordingly, respondents/plaintiffs filed a suit seeking mandatory injunction for directing appellants/defendants to surrender back the vacant possession to respondents/plaintiffs.

4. Upon notice, appellants/defendants appeared in the suit and contested the same by filing their written statement, inter alia, on the plea that appellants/defendants are in possession of property in question as its owners and that respondents/plaintiffs have no concern with the suit property.

5. From the pleading of the parties, following issues were framed by the trial Court :-

- “1. Whether plaintiff is entitled to grant of mandatory injunction as prayed for ? OPP*
- 2. Whether the plaintiff is entitled to grant of permanent injunction as prayed for ? OPP*
- 3. Whether the suit of the plaintiffs is false, frivolous and misuse of process of law ? OPD*
- 4. Whether the plaintiffs have not stated mandatory required facts in the plaint ? OPD*
- 5. Whether no cause of action ever accrued to the plaintiffs to file the suit against the defendants ? OPD*
- 6. Whether the plaintiffs are estopped by their act and conduct ? OPD*
- 7. Relief.”*

5.1 The parties led their respective evidence on the aforesaid issues.

5.2 Learned trial Court allowed the suit filed by respondents/plaintiffs, vide judgment and decree dated 21.04.2023; whereunder following findings were returned on issues No. 1 and 2 :-

“As such, from the pleadings of the parties, it is evident that the stand of the plaintiff that the property in dispute was originally in the name of Mahinder Kaur even stands admitted by the defendants who admitted that the sale deed of the property in dispute is in the name of Mahinder

Kaur. However, it is the stand of the defendants that the property in dispute was purchased by the father of defendant No. 2 namely Paramjit Singh in the name of his mother namely Mahinder Kaur. Even though the said stand was taken up by the defendant but during the course of evidence, no evidence was led to prove that the property was purchased in the name of Mahinder Kaur by the father of defendant No. 2. The sale deed undisputably executed in the name of Mahinder Kaur qua the property in dispute is placed on record is Ex.P6. The revenue record in the shape of the Jamabandi for the year 1968-69 is also part on the record which is in the name of the Mahinder Kaur. If we peruse the sale deed placed on record Ex.P6, it transpires that the said sale deed pertains to the year 1971. It has nowhere come on record that father of defendant No. 2 namely Paramjit Singh was at that time i.e. in the year 1971 of competent age to purchase the property with his own funds and when it is so, merely the oral assertions of the defendants in claiming themselves owner in possession of the property by asserting that the property was purchased by Paramjit Singh does not transpire much confidence of the Court.

Evidently, from the sale deed Ex.P6 Mahinder Kaur was the owner of the property i.e. house in dispute. The said Mahinder Kaur appeared in the witness box from the side of the plaintiffs as PW3 and via evidence of examination in chief supported the case led by the plaintiffs asserting that the property in dispute was transferred by her in the name of the plaintiffs by way of registered Tabdil Malkita. She categorically stated that at present all the plaintiffs are owner in the property in dispute. As per the plaintiffs, the possession was given to the defendants of the portion of the house in dispute because of the reason that the defendants were the relatives of Mahinder Kaur and the possession was

thus permissive in nature. The defendants on the other hand could not prove as to in what capacity they are in possession of the portion of the house in dispute and legally speaking when permissive possession has been revoked by the owner, the defendants have no right to retain the possession of the house in dispute.

As per the plaintiffs, the defendants are in possession of the portion as shown red in the site plan placed on record as Ex.P5 i.e. one room on the ground floor of the house in dispute and two rooms on the first floor of the same. It is the contention of the defendant that the plaintiffs are themselves not sure of the portion in possession of the defendants as the stand taken by the plaintiffs as to the rooms in occupation of the defendants kept on changing in the evidence led by them and even in the ejectment petition earlier filed by the plaintiffs against the defendants, it is the specific stand of the defendants that all the witnesses examined by the plaintiffs have given different versions as to the portions of the house in dispute in occupation of the defendants as the witnesses in their examination in chief have stated that apart from the rooms, the defendants are also in occupation of the kitchen, bathroom, veranda etc. As far as this contention of defendants is concerned, it is not the stand of the defendants that they are not in the possession of the portion as shown in red in the site plan placed on record Ex.P5. Plaintiffs being the master of their own case are well within their right to seek the dispossession of the defendants from the portion in their possession after the permission granted to them has been revoked. The plaintiffs cannot be dictated how's and what's of the reliefs claimed by them from the Court and when the portion as shown red in the site plan as Ex.P5 is undisputedly in possession of the defendants after the revocation of the permissive possession, the same is liable to be vacated by the defendants and as such the above said

contention of the counsel for the defendants also does not inspire much confidence of the Court. In view of the discussion made above the issues No. 1 and 2 stand decided in favour of the plaintiffs and against the defendants.”

6. Feeling aggrieved against aforesaid judgment and decree dated 21.04.2023, appellants/defendants preferred an appeal before learned District Judge, Ludhiana, which came to be adjudicated by learned District Judge, Ludhiana, vide judgment and decree dated 10.04.2026; whereby appeal preferred by appellants/defendants, was dismissed.

7. In the aforementioned circumstances, the instant Regular Second Appeal has been filed by appellants/defendants before this Court.

8. I have heard learned counsel for appellants/defendants and perused the paperbook with his able assistance.

9. In this case, respondents/plaintiffs sought vacant possession of portion of the property from the appellants/defendants by filing a suit for mandatory injunction with a categorical plea that earlier, property in question (including the portion in possession of appellants/defendants) was owned by Smt. Mahinder Kaur on the basis of a registered sale deed dated 13.02.1971 and that Smt. Mahinder Kaur had transferred the aforesaid property to respondents/plaintiffs, vide registered transfer deed dated 06.05.2016 and that appellants/defendants were allowed to reside in the aforesaid property on account of the reason that they were daughter-in-law and son of respondent/plaintiff's brother, namely, Paramjit Singh.

It was categorically stated that the permissive possession of

appellants/defendants was revoked, vide deed dated 08.07.2015 and since appellant/defendant No. 1, namely, Prabhjot Kaur filed a false suit for injunction of respondents/plaintiffs, accordingly, the necessity to file the instant suit for seeking back the possession arose.

9.1 Evidently, the respondents/plaintiffs examined as many as five witnesses, which included Smt. Mahinder Kaur, who was examined as PW3. Smt. Mahinder Kaur had categorically stated regarding her ownership, vide registered sale deed dated 13.02.1971 and also regarding transfer of suit property in favour of respondents/plaintiffs, vide registered transfer deed dated 06.05.2016.

9.2 Concededly, appellants/defendants did not lead any evidence to prove their pleaded case in the written statement that they are in possession of suit property being its owner as no such document of title in favour of appellants/defendants in respect of suit property was ever put-forth.

9.3 Both the courts below have returned concurrent findings of fact that the property belongs to respondents/plaintiffs and permissive possession of appellants/defendants was revoked and subsequent thereto, appellants/defendants had no right to continue in the suit property.

9.4 Before this Court, learned counsel for appellants/defendants has failed to dislodge the finding returned by Courts below. It has also not been pointed out as to which material evidence has not been appreciated by the Courts below.

9.5 After considering the matter in its entirety, I am of the considered view that impugned judgment(s) and decree(s) passed by

Courts below are based on proper appreciation of facts, pleadings as well as evidence placed on record and same does not call for any interference by this Court. That apart, there is no question, much less a substantial question of law, which arises for consideration by this Court.

10. In view of above, I see no merit in this regular second appeal and same is accordingly, dismissed.

11. Since regular second appeal (RSA-2384-2026) stands dismissed, accordingly, application (CM-8436-C-2026), filed under Order 39 Rules 1 and 2 read with Section 151 of Code of Civil Procedure also stands closed.

12. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

03.07.2026
sjks

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