

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

RSA No.203 of 1992 (O&M)

Date of Order:11.09.2023

Gopal Jindal**.Appellant****Versus****Didar Singh****..Respondent****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**Present: Ms. Anjali Singla, Advocate
for the appellant.**

ANIL KSHETARPAL, J

1. This is the defendant's regular second appeal against the concurrent findings of fact arrived at by the courts below while decreeing the plaintiff's suit for possession of shop situated outside Patiala Gate, Nabha.

2. The plaintiff filed a suit for the grant of decree of possession on the basis of judgment and decree passed on 04.04.1977 in Civil Suit No.195/26.03.1977, in which he was declared as an owner in possession of the suit property. It was alleged that the defendant has illegally and forcibly encroached upon the shop in dispute for the last 3 years.

3. The defendant while contesting the suit claimed that the judgment and decree passed in favour of the plaintiff is against public policy and he is in possession as a tenant on the basis of a rent note executed in the year 1969.

4. The trial court on appreciation of the evidence found that the judgment and decree passed on 04.04.1977 is not against public policy and the defendant has no locus to challenge its correctness. The defendant also

failed to produce and prove the rent note allegedly executed in the year 1969. Thus, the trial court decreed the suit.

5. In the first appeal filed by the appellant, additional issues no.4A and 4B were framed while directing the trial court to submit a report after granting opportunities to lead evidence. Thereafter, the report dated 27.07.1991 was received. The appellant did not file any objection to the correctness of the aforesaid report.

6. The First Appellate Court on re-appreciation of the evidence again dismissed the appeal filed by the appellant.

7. In the written statement filed by the defendant, there is a reference to the previous litigation between the parties. The learned counsel representing the appellant admits that the aforesaid litigation has been decided against the appellant.

8. The learned counsel representing the appellant contends that the judgment and decree dated 04.04.1977 cannot result in the transfer of property worth more than Rs.100/- as the same is not registered. She submits that therefore both the courts have erred in decreeing the respondent's suit.

9. This court has considered the submissions of the learned counsel representing the appellant.

10. The judgment and decree passed by the court of competent jurisdiction unless shown to be in violation of a public policy does not require interference. In a subsequent suit, the court cannot go behind the decree passed. Reliance in this regard can be made from the judgment passed in **Gurdev Kaur and another vs. Mehar Singh and others, AIR**

1989 Punjab and Haryana 324. This Division Bench judgment has been

approved by the Supreme Court in ***Bhoop Singh vs. Ram Singh Major and others, (1995) 5 SCC 709***

- 11. Keeping in view the aforesaid facts, no ground to interfere is made out.
- 12. Dismissed.
- 13. All the pending miscellaneous applications, if any, are also disposed of.

September 11, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	:YES/NO
Whether reportable	:YES/NO