

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

RSA-1795-1992 (O&M)

Reserved on :-29.10.2025

Date of Pronouncement:-03.11.2025

Dalip Singh

... Appellant

Versus

Baljit and Others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Mr. Sanjay Mittal, Advocate
for the appellant.

None for respondents Nos.1 to 3.

VIRINDER AGGARWAL, J.

1. The appellant/plaintiff has instituted the present Regular Second Appeal (hereinafter referred to as “RSA”) under Section 41 of the Punjab Courts Act, 1918, assailing the judgments and decrees rendered by the Courts below. The appeal is primarily founded on the contention that the findings recorded by the learned Sub-Judge Ist Class, Jhajjar and the learned Additional District Judge(I), Rohtak, are contrary to law, founded upon a manifest misappreciation of evidence, and have occasioned substantial prejudice to the appellant, thereby warranting the intervention of this Court in exercise of its appellate jurisdiction under the said provision.



2. For the sake of clarity and convenience in the discussion, the parties shall hereinafter be referred to as the plaintiff and the defendants, corresponding to their respective status before the learned Trial Court. The salient and material facts forming the foundation of the present proceedings, which are essential for an informed adjudication of the issues, are briefly narrated as follows:-

“The plaintiff instituted the present suit for permanent injunction, asserting that he is the lawful owner in possession of the property described in paragraph 1 of the plaint. The suit land devolved upon him through inheritance and came into his exclusive possession pursuant to a partition with his brothers. It is stated that the plaintiff has been utilizing the land for storing fodder and placing *kuraries*. The defendants Nos. 1 and 2, in collusion with defendant No. 3, have allegedly attempted to interfere with his peaceful possession despite repeated requests to refrain, thereby compelling the plaintiff to institute the present proceedings.”

3. Upon notice, the defendants appeared and filed written statements. Defendants Nos. 1 and 2 denied the plaintiff's claim of ownership and possession, asserting that the suit land, along with adjoining property, forms part of the *Shamlat Deh* used for common village purposes. They further contended that construction of a Shiv Mandir and other public structures was underway and that the plaintiff never possessed the land. Objections were also raised that the Civil Court lacked jurisdiction, the suit was barred by *res judicata*, suffered from non-joinder of necessary parties, and that the plaintiff had no *locus standi*. Defendant No. 3, in his separate



written statement, reiterated that the land was *Shamlat Deh* and that the suit was barred by *res judicata*.

4. Upon careful consideration of the pleadings and the rival contentions, the Court has framed the following issues for determination, so as to ensure a focused, comprehensive, and effective adjudication of the disputes between the parties:-

1. Whether the Civil Court has no jurisdiction to adjudicate upon the controversy involved as alleged ?OPD.
2. Relief

5. The parties were afforded ample opportunity to adduce evidence in support of their respective claims and defense. Upon the conclusion of evidence and after hearing learned counsel at length, the learned Sub-Judge Ist Class, Jhajjar having carefully considered the pleadings, material on record, and submissions advanced, dismissed the suit and observed that “*in view of the finding on the preliminary issue, the Civil Court lacks jurisdiction to entertain the matter; accordingly, the plaint is rejected with parties left to bear their own costs.*” Aggrieved by this judgment and decree, an appeal was filed before the learned Additional District Judge(I), Rohtak , which was also dismissed by observing that “*the judgment cited by learned counsel for the plaintiff in Smt. Sheela Adhikari (supra) is inapplicable, as it concerns territorial jurisdiction, whereas the present matter pertains to the civil court’s competence, which is expressly barred under Section 13(a)(1) of the Act. Consequently, the appeal lacks merit and is dismissed, with parties left to bear their own costs.*”

6. The appellant has preferred the present appeal challenging the concurrent judgments and decrees passed by the learned Courts below,



which were duly admitted for hearing. Upon admission, notices were issued to the respondents; however, respondents No.1 and 3 failed to enter appearance, while respondent No.2 was reported deceased. As neither party moved any application for bringing the legal representatives of respondent No.2 on record, the said respondent, along with the remaining respondents, remained unrepresented. Consequently, the entire record and proceedings of the subordinate Courts were summoned for the Court's detailed scrutiny and judicious determination of the matter.

7. I have heard learned counsel for the appellant at considerable length and accorded due deliberation to his submissions in the context of the pleadings, evidentiary corpus, and the concurrent findings of the Courts below. The record has been scrupulously examined to evaluate the rival contentions and to ascertain *'whether the impugned judgments and decrees are vitiated by any error of law, procedural impropriety, or manifest perversity warranting interference in the exercise of appellate jurisdiction'?*

8. With regard to the scope of a second appeal, it is now a well-settled proposition of law that, in Punjab and Haryana, second appeals are to be treated as appeals under Section 41 of the Punjab Courts Act, 1918, and not under Section 100 of the Code of Civil Procedure. In this context, reliance may be placed on the judgment of the Supreme Court in **Pankajakshi (Dead) through LRs and Others v. Chandrika and Others, (2016) 6 SCC 157**, followed by **Kirodi (since deceased) through LR v. Ram Parkash and Others, (2019) 11 SCC 317**, and **Satender and Others v. Saroj and Others, 2022 (12) Scale 92**. In view of the legal position established by these decisions, no substantial question of law arises that necessitates framing in the present appeal.



9. The pivotal issue that arises for consideration before this Court is “*whether the learned Civil Court possessed the jurisdiction to entertain and adjudicate the present suit, or whether such jurisdiction stood barred under Section 13 of the Punjab Village Common Lands (Regulation) Act (hereinafter referred to as ‘the Act’)*”? Both the Courts below have concurrently held that the jurisdiction of the Civil Court is expressly barred in view of the provisions contained in the said Section.

9.1. The learned counsel for the appellant, however, has strenuously argued that the Courts below have committed a manifest illegality in recording such a finding. In support of his contention, reliance has been placed upon the judgments rendered by this Court in **Jhagru Ram v. Jagan and Others, 2010(4) PLR 605**; **Ram Narayan and Another v. Dhanak Community and Others, 2017(2) RCR (Civil) 190**; and **Jasmier Singh and Others v. Dalip Singh and Another, 2022(4) PLR 570**. Learned counsel further contends that the question of jurisdiction is a mixed question of law and fact, which cannot be decided as a preliminary issue. It is argued that both the Courts below erred in law by treating the issue of jurisdiction as a preliminary issue.

10. In the present case, the objection raised by the respondent pertains to the bar of Civil Court’s jurisdiction in terms of Section 13 of the Act. Accordingly, the said issue was framed and treated as a preliminary issue. The reliance placed by the appellant upon ‘**Bhag Singh v. Nek Singh, 1994(3) PLR 151**’, is misplaced and distinguishable, as in that case the question of jurisdiction required adjudication upon evidence in order to ascertain the relevant facts. Conversely, in the present matter, the bar of



jurisdiction is apparent from the pleadings themselves specifically from the averments made in the plaint and the written statement and no further evidence is necessary for its determination.

10.1. As regards the plaintiff's case, the plaintiff sought a decree of permanent injunction restraining the defendant from interfering with his possession over the suit land, asserting himself to be the owner in possession of the disputed property.

11. Upon notice, the respondent No.3/defendant-Gram Panchayat denied the plaintiff's right, title, or interest in the disputed land, asserting that the property, along with adjoining land, constitutes *Shamlat Deh* reserved for common village purposes. It was further contended that the plaintiff had never remained in possession thereof and that the suit was barred by the principles of *res judicata*. Both the Courts below, after due consideration, concluded that the jurisdiction of the Civil Court is barred under Section 13 of the Act.

12. The learned counsel for the appellant further submitted that the instant case does not involve adjudication of ownership rights, but only a determination as to whether an injunction should be granted or not, relying upon the judgments cited earlier.

13. A perusal of **Jhagru Ram's** case (*supra*) reveals that the dispute therein pertained to removal of encroachment from a public path, while in **Ram Narayan's** case (*supra*), the controversy was limited to a village path, and the plaintiffs therein did not lay any claim to ownership of the suit property. It was observed in those cases that the bar under Section 13 of the

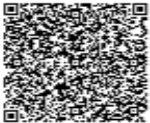


Act is attracted only when the question of title to the land is in dispute. In paragraph 14 of **Ram Narayan's** case (supra), this Court held as under:-

14. A perusal of the aforesaid Section 13 thus shows that it bars the jurisdiction of the Civil Court with regard to entertaining any question as to whether any land or other immovable property vests in the Panchayat or not. Further, Section 7 empowers the Assistant Collector to eject any person in wrongful or unauthorized possession of land or other immovable property included in the Shamilat Deh of the village, either by taking suo motu notice of any encroachment on such land or on an application made to him.

Secondly, as regards the issue of whether or not the land vests in the Panchayat, the appellant-plaintiffs were debarred from invoking the jurisdiction of the Civil Court, which in fact they also did not do, the suit being one seeking only a permanent injunction against the defendant-respondents, including the Gram Panchayat, whose title was never questioned, and in fact, resolutions passed by it were relied upon.”

14. In the present case, the appellant-plaintiff predicates his claim for a decree of permanent injunction upon the assertion of ownership and possession over the suit land, whereas the respondents-defendants have unequivocally repudiated the appellant's title. The relief sought thus inherently necessitates an adjudication upon the question of ownership, which falls squarely within the ambit of title determination. Consequently, the matter transcends the scope of a mere injunction and engages issues exclusively triable by the competent revenue authority under Section 13 of the Act. The judicial precedents relied upon by the appellant are clearly distinguishable and bear no application to the factual matrix of the present



dispute. The concurrent findings of the Courts below, holding that the Civil Court is divested of jurisdiction in such circumstances, are legally sound and free from any perversity or procedural irregularity. Accordingly, no interference is warranted, and the appeal, being devoid of substance, merits dismissal.

15. Since the principal matter has been adjudicated and finally disposed of by this judgment, all pending miscellaneous application(s), if any, which are ancillary or incidental to the main proceedings, stand disposed of accordingly. No separate orders are required to be passed thereon.

03.11.2025
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No