



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

RSA-1530-1991 (O&M)

Reserved on :- 15.10.2025

Pronounced on :-27.10.2025

Smt. Bindra Bidani and Others

... Appellants

Versus

Jagdish Chander

... Respondent

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

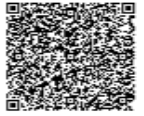
Mr. Sandeep Jasuja, Advocate,
for the appellants.

Mr. Ashwani Kumar Chopra, Senior Advocate, with
Mr. Brahmjot Singh Nahar, Advocate, for the respondent.

VIRINDER AGGARWAL, J.

The appellants/defendants, being aggrieved and dissatisfied with the judgment and decree dated 16.04.1991 passed by the learned Additional District Judge, Ferozepur, in Civil Appeal No. 10 of 22.02.1989/07.01.1991, whereby the well-reasoned judgment and decree dated 19.01.1989 of the learned Sub-Judge 1st Class, Fazilka, in Case No. 172-1 of 02.08.1984, were erroneously set aside, respectfully invoke the jurisdiction of this Court under Section 41 of the Punjab Courts Act, 1918, by way of the present Regular Second Appeal (RSA). The appellants seek restoration of the decree passed by the learned Trial Court and appropriate relief for the substantial injustice suffered.

1.1. It is respectfully submitted that the impugned judgment and decree is vitiated by patent illegality, perversity, and grave errors of law, compounded by a misappreciation of evidence on record, resulting in a



manifest miscarriage of justice. In these circumstances, the appellants pray that this Court be pleased to set aside the impugned judgment and decree and restore the lawful and well-reasoned decree passed by the learned Trial Court.

2. For clarity and ease of reference, the parties shall hereinafter be designated as the *plaintiff* and the *defendants*, consistent with their respective roles before the learned Trial Court. The material facts giving rise to the present proceedings are summarized as follows:-

“The plaintiff has averred in the plaint that he is the absolute owner of the property in dispute, whereas the defendants have no legal right, title, or interest therein. Being aged and infirm, he resides with his daughter at Fazilka and oversees the cultivation of the land through his tenants. The defendants are now threatening to unlawfully interfere with his peaceful possession and dispossess him, thereby necessitating the institution of the present suit.”

3. Upon service of notice, the defendants have contested the suit and, by filing their written statement, have asserted that Devi Dass had three sons, Devi Dyal, Jugal Kishore, and Jai Gopal and that upon Devi Dyal's death, his heirs including Smt. Radha Rani, Jai Gopal, Jugal Kishore, and Om Parkash acquired his one-third share and are in lawful possession of the disputed property as co-sharers. The plaintiff has admitted their ownership and possession pursuant to the agreement dated 29.10.1983 for appointing arbitrators, as reflected in his affidavit. It is contended that the defendants had filed a suit for declaration with consequential injunction restraining the plaintiff from alienating the property. The plaintiff's prior suit for declaration



and injunction, including an application under Order 39 Rule 1 C.P.C., was dismissed as withdrawn. Subsequently, Defendants No. 2 and 3 obtained an injunction in their declaration suit. The present suit is alleged to have been filed by the plaintiff as a counter-blast with *mala fide* intent.

4. The plaintiff filed a replication, reiterating and reaffirming all material averments in the plaint while specifically traversing and refuting the defenses raised by the respondents. Upon careful examination of the pleadings, documents, and submissions of both parties, this Court has framed the following issues for determination to facilitate a clear adjudication of the rival claims and defenses:-

1. Whether the plaintiff is estopped to file this suit by his on act and conduct?OPD.
2. Whether the plaintiff is the owner in possession of the property in suit?OPP
3. Whether the plaintiff is entitled to the permanent injunction as prayed for?OPP
4. Relief.

5. Both parties were provided ample opportunity to adduce evidence in support of their respective claims. Upon the conclusion of the trial and after hearing the learned counsel for the parties, the learned Sub-Judge 1st Class, Fazilka, dismissed the suit. Aggrieved by this decision, the respondent/plaintiff preferred an appeal before the learned Additional District Judge, Ferozepur, which was allowed, resulting in the reversal of the well-reasoned judgment and decree of the learned Trial Court. In its judgment, the learned Appellate Court held that “*the appeal is allowed, the impugned judgment and decree of the trial court are set aside, and a decree for permanent injunction is passed restraining the defendants from*



interfering with the plaintiff's peaceful possession of the agricultural land comprised in Khasra Nos. Rectangle No. 6 Killa No. 21 (0-1), Rectangle No. 7 Killa Nos. 23 (0-16), 24 (0-16), 25 (0-11), Rectangle No. 9 Killa Nos. 3 (6-16), 4 (8-0), 5 (8-0), 9 Killa Nos. 13/12 (0-4), 5 (8-0), 7/2 (7-8), 8 (8-0), 13/2 (2-0), 14 (8-0), Rectangle No. 10 Killa No. 1/2 (6-7), Khasra No. 251 Killa Nos. 2 (2-5), 2 (0-5), Khewant No. 10, Khatoni No. 17, Village Badha, Tehsil Fazilka, or from dispossessing him unlawfully or forcibly. The decree is granted in favor of the plaintiff with costs, and the file shall be consigned to the record room."

6. Challenging the judgment and decree of the learned First Appellate Court, the appellants instituted the present appeal, which was duly admitted. Notice was served upon the respondents, who appeared through their respective counsel, and the records of the courts below were requisitioned for detailed scrutiny and adjudication.

7. I have heard learned counsel for the parties and carefully considered their submissions alongside the pleadings, evidence, and findings of the lower courts. The record has been meticulously examined to determine "*whether the impugned judgments and decrees are vitiated by any legal error or infirmity warranting interference by this Court*"?

8. As regards the scope of second appeal, it is now a settled proposition of law that in Punjab and Haryana, second appeals preferred are to be treated as appeals under Section 41 of the Punjab Courts Act, 1918 and not under Section 100 CPC. Reference in this regard can be made to the judgment of the Supreme Court in the case of **Pankajakshi (Dead) through LRs and others V/s Chandrika and others, (2016)6 SCC 157**, followed by the judgments in the case of **Kirodi (since deceased) through his LR V/s**

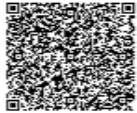


Ram Parkash and others, (2019) 11 SCC 317 and Satender and others V/s Saroj and others, 2022(12) Scale 92. Relying upon the law laid down in the aforesaid judgments, no question of law is required to be framed.

9. Learned counsel for the appellants, at the very outset, has expressly stated that the present appeal shall not be pressed, having regard to the adjudication rendered in the connected RSA-1580-1994 titled as **Jai Gopal and Another vs. Jagdish Chander**, in which identical questions of law and fact between the same parties regarding suit property were conclusively examined and determined. In view of the findings recorded in the aforementioned proceedings, the learned counsel for the appellants has refrained from urging the present appeal, acknowledging that the issues raised herein have already been finally and authoritatively settled, thereby rendering further examination unnecessary and obviating the need for protraction of litigation between the same parties on the same points.

10. The learned First Appellate Court correctly concluded that the execution of Ex.P1 and Ex.PW5/1 was fraught with suspicious circumstances and was not substantiated by cogent and credible evidence. The record demonstrates that the agreement and the alleged Arbitration Award were prepared contemporaneously by the same scribe and dictated by counsel Sh. S.K. Jasuja in his office. Such circumstances, as aptly appreciated by the First Appellate Court, engendered serious doubts regarding the authenticity, veracity, and probative value of these documents. Consequently, the documents were rightly rejected.

11. This Court aligns with the reasoning of the First Appellate Court. It is a well-settled legal proposition that rights, title, and interest in immovable property cannot be created, transferred, or extinguished except



by a registered instrument, as mandated under Sections 17 and 49 of the Registration Act, 1908, read with Section 54 of the Transfer of Property Act, 1882. A mere admission or acknowledgment, however unequivocal, cannot, per se, confer ownership or extinguish proprietary rights, particularly where the respondent remains in lawful possession of the property.

12. Applying the ratio of **RSA-1580-1991** to the facts of the present case, it is manifest that no right, title, or interest has been created in favor of the appellants, nor have the ownership rights of the respondent/plaintiff been divested. In light of the foregoing, the instant appeal is bereft of merit and is accordingly dismissed. No order as to costs.

13. Consequent to the final adjudication of the main proceedings, all pending miscellaneous applications, if any, filed in connection with or arising out of the present appeal, are hereby disposed of in view of the decision rendered herein. No further directions or orders are warranted, and such applications stand disposed of in accordance with the conclusions reached in the principal case.

27.10.2025
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

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