



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

**RSA-2898-1994 (O&M)
Reserved on :-16.10.2025**

Date of Pronouncement:-27.10.2025

Fuman Singh @ Phuman Singh (Since Deceased) Through His LRs

... Appellants

Versus

Fauja Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

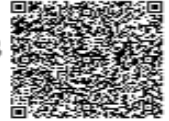
Argued by :-

Mr. Shivam Sharma, Advocate
for the appellants.

Mr. S.D. Bansal, Advocate
for the respondent (**through Video Conferencing**).

VIRINDER AGGARWAL, J.

The appellants have 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 Additional Senior Sub-Judge, Fatehabad, and the learned Additional District Judge, Hisar, are contrary to law, founded upon a manifest misappreciation of evidence, and have occasioned substantial prejudice to the appellants, 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 defendant, 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:-

“This is a suit seeking a declaratory decree affirming that the plaintiff is the owner in possession of 9 Kanals 15 Marlas of land, comprised in Killa Nos. 4//10/2 and 11/1, village Majra, Tehsil Fatehabad. The plaintiff challenges the decree dated 12.02.1990 in Civil Suit No. 648 of 1989 (Fauja Singh vs. Phuman Singh) by Sh. Kuldip Jain, then Sub Judge 1st Class, Fatehabad, as illegal, null, and void, having been obtained by misrepresentation and fraud. The plaintiff owns and possesses the land and a *Katcha* house within *Lal Lakir*, consisting of ten rooms, a kitchen, and boundary walls, where he and his family have resided for over 40 years. He has no other agricultural land and depends solely on the income from this property.

It is alleged that the defendant, acting fraudulently, obtained the plaintiff's signatures on blank papers under the pretext of repaying a bank loan and misused them in Civil Suit No. 648 of 1989. The alleged oral exchange of the land never occurred, and the plaintiff neither appeared nor engaged counsel in that suit. Consequently, the decree is fraudulent, legally void, and non-binding. The defendant is now threatening the



plaintiff's possession, prompting the present suit for a declaration of ownership and possession.

3. Upon service of notice, the defendant appeared and filed a written statement, in which he resisted the plaintiff's claims, categorically denying all allegations in the plaint. The defendant also raised several preliminary objections, challenging the plaintiff's *locus-standi*, the sufficiency of the Court fee, and the jurisdiction of the Court to entertain and maintain the suit, further contending that the suit is vexatious, false, and devoid of merit.

3.1. On the merits, the defendant categorically denied the claims of the plaintiff. While it was acknowledged that the plaintiff had previously been in possession of the disputed land, the defendant contended that, pursuant to the decree dated 12.02.1990, the plaintiff is now the lawful owner in possession. The defendant further denied that the plaintiff ever held ownership of the house situated within Lal Lakir, village Majra, as alleged in Paragraph 1 of the plaint, asserting that the house has always belonged to the defendant and that the plaintiff's possession arises solely from the decree of exchange dated 12.02.1990.

3.2. The defendant categorically denied that he obtained the plaintiff's signatures on blank papers or engaged in any fraudulent conduct to procure the impugned decree concerning the disputed land. On the contrary, it was asserted that the plaintiff personally appeared before the Court, engaged legal counsel, filed a written statement, and admitted the defendant's claim regarding the land. Accordingly, the impugned decree was rendered with the consent of both parties, and is therefore legal, valid, and binding upon the plaintiff.



3.3. All other allegations advanced by the plaintiff were expressly denied, and it was contended that the entire narrative of fraud, coercion, or misrepresentation is wholly concocted, baseless, and without evidentiary support.

4. The plaintiffs filed a replication, expressly denying and disputing the contentions set forth in the defendant's written statement. Upon a careful examination of the pleadings and the rival claims, this Court has formulated the following issues for determination, to facilitate a focused and effective adjudication of the disputes between the parties:-

1. Whether the plaintiff is owner in possession of land in dispute, if so, its effect?OPP
2. Whether the decree dated 12.2.1990 passed in Civil Suit No.648 of 1989, titled as Fauja Singh Vs Phuman Singh is wrong, illegal, null and void and is not binding upon the rights of the plaintiff on the grounds taken in the plaint?OPP
3. Whether the suit is not maintainable in the present form? OPD
4. Whether the plaintiff has no *locus-standi* to file and maintain the suit? OPD
5. Whether this Court has no jurisdiction to entertain and try this suit? OPD
6. Whether the suit has not been properly valued for the purposes of Court-fee and jurisdiction? OPD
7. Relief.

5. The parties were afforded ample opportunity to adduce evidence in support of their respective claims and defenses. Upon the conclusion of evidence and after hearing learned counsel at length, the learned Additional Senior Sub-Judge, Fatehabad having carefully considered the pleadings, material on record, and submissions advanced, dismissed the suit. Aggrieved



by this judgment and decree, an appeal was filed before the learned Additional District Judge, Hisar, which was also dismissed by observing that *“The Trial Court’s finding on Issues No. 3 and 4 that the plaintiff lacked cause of action and the suit was not maintainable is unsustainable, as the plaintiff had challenged the prior decree on grounds of fraud and claimed possession. Issues No. 3 & 4 is reversed, without affecting the appeal’s ultimate outcome.”*

6. The appellants have filed the present appeal, challenging the judgments and decrees of the learned Courts below, which was duly admitted for hearing. Notice was served upon the respondent, who appeared through engaged counsel, and the records and proceedings of the lower Courts were requisitioned for this Court’s comprehensive examination and adjudication.

7. I have carefully heard the submissions of learned counsel for both parties and considered them in conjunction with the pleadings, evidence on record, and the findings recorded by the Courts below. The records have been meticulously examined to evaluate the competing contentions and to determine the existence of any legal infirmity or error warranting interference and as to *‘whether the impugned judgment and decree suffer from any legal defect, error of law, or manifest perversity that would justify this Court’s interference in the present appeal’?*

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 learned counsel for the appellant has addressed the Court in detail, advancing submissions on the various grounds of appeal, including errors of fact, misappreciation of evidence, and legal infirmities in the judgments and decrees of the courts below. It is emphatically urged that the findings of both the learned Trial Court and the learned First Appellate Court are manifestly contrary to law and the evidence on record. The courts below have failed to properly appreciate the oral and documentary evidence, resulting in grave miscarriage of justice. The impugned judgments suffer from perversity and legal error, as they disregard settled principles governing ownership, possession, and the burden of proof. The appellant, who has been in lawful, peaceful, and continuous possession of the disputed property for a considerable period, has thereby acquired and established ownership rights duly supported by documentary and oral evidence. The courts' failure to recognize this lawful possession vitiates their conclusions and warrants interference by this Court.

9.1. It is further submitted that the learned courts below erred in treating Issues Nos. 1 to 4 as interdependent without independently adjudicating each issue on its own legal footing. The learned Trial Court's observation that the issues were interconnected reflects a fundamental misdirection, as each issue relating to the validity of prior decrees,



possession, and ownership—raised distinct legal and factual questions. This conflation has led to erroneous findings. The findings on Issues Nos. 1 and 2, in particular, are perverse, as the courts failed to consider material documentary evidence, including Ex.P-7 to Ex.P-11, comprising official revenue records which conclusively establish the appellant's lawful possession and ownership. The omission of these documents public records carrying evidentiary value constitutes a serious error of law and fact. Furthermore, the courts below have unjustifiably disregarded the testimonies of PW1 Gopi Ram Singal and PW3 Punnu Singh, both of whom provided direct, cogent, and credible evidence substantiating the appellant's continuous possession and ownership. Their depositions, being material to the determination of core issues, were either ignored or inadequately appreciated, leading to an unsustainable outcome.

9.2. It is further contended that the lower courts have failed to apply settled principles governing the law of possession, ownership, and the effect of prior decrees. By not properly scrutinizing whether the impugned decree was lawfully obtained, the courts have occasioned manifest injustice to the appellant. Proper application of established legal principles would have inevitably led to a different and just result. The impugned findings reflect misreading and misinterpretation of both documentary and oral evidence. Material facts such as the appellant's longstanding possession, ownership of the *kacha* structure, and supporting revenue entries have been either overlooked or misconstrued, thereby undermining the legality and correctness of the courts' conclusions. Viewed holistically, the judgments and decrees of the courts below are unsustainable, being vitiated by perversity, misapplication of law, and failure to consider vital evidence.



9.3. In summation, learned counsel for the appellant submits that the learned First Appellate Court erred in dismissing the appeal without due appreciation of the appellant's submissions, documentary evidence, and the settled legal position on ownership and possession. Such dismissal constitutes a clear error of judgment resulting in substantial prejudice to the appellant. In view of the foregoing, it is most respectfully prayed that this Court be pleased to allow the appeal, set aside the judgment and decree dated 29.07.1994 of the learned First Appellate Court, and restore the appellant's lawful possession and proprietary rights over the property in dispute, in the interest of justice and equity.

10. The learned counsel for the respondent respectfully submits the following counter-arguments in response to the submissions advanced by the learned counsel for the appellant. It is submitted that the respondent categorically denies all allegations levelled by the appellant and contends that the suit instituted by the appellant/plaintiff is frivolous, vexatious, and devoid of merit. The averments contained in the plaint are wholly concocted, misleading, and intended to unsettle the respondent's lawful rights and possession. The learned counsel for the respondent further submits that, while it is admitted that the appellant was at one time in possession of the land in question, such possession stood lawfully superseded pursuant to the decree dated 12.02.1990. The said decree conferred valid ownership and possession upon the respondent, which cannot be disturbed in the absence of any demonstrable legal infirmity none having been shown in the present case.

10.1. It is specifically denied that the appellant ever had ownership or lawful possession of the house situated within the '*Lal Lakir*' of village



Majra. The property was owned and possessed by the respondent and was transferred to the appellant only by way of exchange. The appellant's assertion of prior possession is both factually incorrect and legally unsustainable. The allegations of fraud, coercion, or the obtaining of signatures on blank papers are entirely baseless and unsupported by evidence. It is argued that the record clearly establishes that the appellant personally appeared before the court, engaged counsel, filed a written statement, and voluntarily admitted the respondent's claim in the proceedings culminating in the decree. Consequently, the decree dated 12.02.1990 passed in Civil Suit No. 648 was a lawful and valid consent decree, rendered after due observance of procedural requirements and with the free consent of both parties. The decree, being neither vitiated by fraud nor tainted by misrepresentation, is binding and enforceable in law. The appellant has failed to adduce any credible or substantive evidence in support of his allegations. The present proceedings thus constitute a mala fide attempt to disturb the respondent's lawful possession and rights over the property.

10.2. The respondent expressly denies all remaining allegations not specifically addressed herein. The appellant has failed to disclose any cause of action or establish any legal right warranting interference. The appeal is devoid of substance and has been instituted with an oblique motive to harass the respondent.

10.3. In view of the foregoing submissions, it is most respectfully prayed that this Court be pleased to dismiss the present RSA, uphold the well-reasoned judgment and decree dated 14.01.1993 of the learned Trial Court as affirmed by the learned First Appellate Court on 29.07.1994, and



pass such further orders as may be deemed just and proper to protect and preserve the respondent's lawful rights and possession.

11. With respect to the contention of learned counsel for the appellants that documents Ex.P7 to Ex.P11 were allegedly ignored by the learned Courts below, it is pertinent to note that the scope of the present litigation is confined to the legality and validity of the decree dated 12.02.1990 passed in Civil Suit No. 648 of 1989. It is well-settled that a Court cannot go behind a validly passed decree, as has been held by this Court in **Maruti vs. Jai Ram and Other, 2011(3) PLR 49**, wherein it was observed as follows:-

12. As regards plea that family settlement is not proved, the said question cannot be reopened in the instant subsequent suit. Consent decree can be challenged in subsequent suit on the ground of fraud and misrepresentation etc. and not on the ground that facts pleaded in the previous suit culminating in the impugned consent decree were erroneous and incorrect. The said question stands determined and concluded by the consent decree and cannot be re-adjudicated and would be barred by principle of res judicata in the subsequent suit.

12. It is also a well-settled principle of law that a judgment and decree passed by a Civil Court can be challenged only on limited grounds, such as fraud, misrepresentation, or coercion. In this regard, this Court in **Murti vs. Jai Ram's case (supra)**, observed as follows:

10. Impugned consent decree was passed not only on the basis of admission made in the written statement in the previous suit, but also on the basis of statement recorded in the Court in the previous suit. Statement made in the Court has authenticity and sanctity. The said statement cannot be said to be result of fraud and misrepresentation. In the statement made



in the Court in the previous suit, plaintiffs herein (who were defendants in the previous suit) admitted the claim of defendant herein, who was plaintiff in the said suit. The said statement was recorded in Hindi and was readover and explained to the plaintiffs herein and then they signed/thumb marked the same. Consequently, it cannot be said that the said statement was made by plaintiffs herein for execution of power of attorney.”

12.1 In the present case, the appellant-plaintiff has failed to establish on record that the judgment and decree was obtained by fraud on the part of Fauja Singh. The learned Courts below rightly noted that the respondent-defendant examined Harjit Singh, Advocate, as DW-1, who had appeared on behalf of the appellant-plaintiff and testified that he was engaged by the plaintiff to act as counsel, filed a written statement admitting the claim of Fauja Singh, and also made a statement before the Court in support of that written statement.

12.1. It is well-settled that a presumption of regularity attaches to judicial and official acts, as provided under Section 114-e of the Indian Evidence Act, 1872, which reads as follows:-

“114(e) that judicial and official acts have been regularly performed”

13. In the present case, the evidence on record clearly demonstrates that the appellant-plaintiff personally appeared before the Court and made a statement admitting the claim of the respondent-defendant. Once such a statement is made in open Court, a rebuttable presumption of regularity and correctness attaches to the judicial act, as contemplated under Section 114-e of the Indian Evidence Act, 1872. It was incumbent upon the appellant-plaintiff to rebut this presumption by leading cogent, credible, and



convincing evidence demonstrating that the statement was recorded under duress, fraud, or misrepresentation.

13.1. A mere assertion that the appellant-plaintiff was induced to sign certain documents on the pretext that they were loan discharge papers is manifestly insufficient to displace the presumption, particularly when the record shows that the contents of the statement were read over to the appellant-plaintiff in Court and he acknowledged and admitted them as correct. The appellant-plaintiff's case that he was made to sign blank papers cannot support a conclusion that the Court's record itself was pre-signed or otherwise manipulated.

13.2. Both the learned Trial Court and the First Appellate Court correctly concluded that the appellant-plaintiff has failed to prove that the judgment and decree dated 12.02.1990 were obtained through fraud or misrepresentation. In arriving at this conclusion, the Courts below rightly relied upon the precedent set by this Court in **Harpal and Others vs. Ram Piara and Others, 1981 PLJ 492**, which affirms that a subsequent Court cannot go behind a validly passed decree, as such a decree settles the rights of the parties and the second Court is only entitled to examine whether the earlier decree was passed free from any fraud, misrepresentation or coercion etc.

13.3. Given that the judgment and decree in favour of the respondent-defendant have been held to be legal, valid, and binding, the suit filed by the appellant-plaintiff was properly dismissed by the Courts below. Learned Courts below has rightly discarded revenue entries regarding possession, as these entries would be altered only when mutation on the basis of decree is sanctioned. There is no illegality, infirmity, or procedural irregularity in the



findings recorded by the learned Trial Court and the First Appellate Court. Accordingly, the present appeal is wholly devoid of merit and is hereby dismissed in its entirety, with no orders as to costs.

14. Since the primary matter has now been finally adjudicated and the main case has been conclusively decided by this Court, any and all pending miscellaneous applications, if remaining pending in connection with the said proceedings, shall also stand disposed of in consequence, with the disposal being deemed to cover all ancillary or incidental applications filed in the course of the main litigation, without requiring separate orders in respect thereof.

27.10.2025
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

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