



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

RSA-2153-2000 (O&M)

Reserved on : 10.12.2025

Pronounced on : 16.12.2025

Uploaded on: 16.12.2025

Ram Saran (Since Deceased) through his LRs and another ... Appellants

Versus

Smt. Shanti Devi ... Respondent

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Amit Jain, Senior Advocate with
Ms. Aeshna Jain, Advocate for the appellants.

None for the respondent.

VIRINDER AGGARWAL, J.

1. The instant Regular Second Appeal (for short to be referred as "RSA") has been instituted by the appellant-plaintiff to impugn the judgment and decree dated 25.02.2000 rendered by the learned Additional District Judge, Narnaul, whereby the findings of the trial Court were unequivocally affirmed. The trial Court, vide its judgment and decree dated 16.03.1992 passed by the learned Senior Sub-Judge, Narnaul, had decreed the suit instituted by the respondent/plaintiff seeking a declaratory decree. The appellants now challenges the concurrent findings of both Courts below as being legally unsustainable and factually erroneous.

2. The appellant's case, as pleaded, is that the respondent/plaintiff, Shanti, claiming to be the lawful owner of the property described in paragraph 1 of the plaint and in the site plan Ex. P-3, and asserting possession through the defendants/appellants and other tenants, filed the suit seeking a permanent



injunction restraining the defendants from raising construction or interfering with her possession. She also sought a mandatory injunction for demolition of the construction already raised and a declaration affirming her ownership and possession, with the defendants and others recognized as her tenants. The suit was accordingly instituted.

3. Upon service of summons, the respondents entered appearance through counsel and contested the claim by filing a written statement, wherein the defendants denied the plaintiff's title and possession over the property, asserting instead that they themselves are its owners and in exclusive possession. In the alternative, they claimed ownership and alleged that they are in possession as owners since last 80/90 years. Along with these assertions on merits, they also raised certain legal objections. They accordingly prayed that the suit be dismissed as wholly devoid of merit.

4. Subsequently, the respondent-plaintiff submitted a replication, wherein the assertions and objections raised in the written statement were categorically denied, while the averments and claims articulated in the plaint were unequivocally reiterated and reaffirmed. Upon a comprehensive and careful scrutiny of the pleadings on record, as well as the rival contentions advanced by the parties, the Court deemed it appropriate to crystallize the matters in controversy and, for the purposes of a systematic and legally coherent adjudication, proceeded to frame the following issues for determination:-

1. Whether the plaintiff is owner in possession 1. of the suit property? OPP.
2. Whether the defendants are tenants in the suit property under the plaintiff, if so to what effect? OPP.
3. Whether the suit is barred by limitation? OPD



4. Whether the suit is bad on account of non- joinder of necessary parties ?
OPD.
5. Whether the plaintiff is estopped from bringing the present suit by her
act and conduct? OPD
6. Relief.

5. Both parties were granted full opportunity to adduce evidence pursuant to the framing of issues. Upon consideration of the entire material on record, the learned trial Court decreed the suit in favour of the respondent/plaintiff. The appeal preferred by the appellants/defendants was dismissed by the first appellate Court. Aggrieved by the concurrent findings, the appellants have approached this Court by way of the present Regular Second Appeal.

6. The appellants has instituted the instant appeal before this Court challenging the concurrent judgments and decrees rendered by the learned Courts below. The appeal, upon being found to merit consideration, was formally admitted to regular hearing, and notice was duly issued to the respondent, however, she chose not to contest the matter any further and remained absent at the stage of final arguments. Consequently, the appeal was heard in its entirety on the submissions advanced by learned counsel appearing for the appellant alone.

6.1. To enable a thorough, informed, and effective adjudication of the issues arising in the appeal, the complete record of the Courts below was requisitioned and placed before this Court for perusal and consideration.

7. I have heard learned counsel for the appellants at considerable length and have bestowed anxious and thoughtful consideration upon his submissions, keeping in view the pleadings of the parties, the evidentiary material brought on record, and the concurrent findings returned by the Courts



below. The entire record has been subjected to a meticulous and comprehensive scrutiny for the purpose of determining *‘whether the impugned concurrent judgments and decrees suffer from any jurisdictional error, manifest perversity, misappreciation of evidence, or any other legal infirmity that would justify and necessitate interference in the exercise of appellate jurisdiction’?*

8. I have heard learned counsel for the appellant with due thoroughness and have undertaken a meticulous and comprehensive examination of the entire record.

9. The present appeal, in its essence, culminates in the emergence of the following *‘quaestio juris substantialis’* requiring authoritative determination by this Court:-

“i. Whether both the Courts below erred in holding that the respondent/plaintiff is the owner of the suit property?

ii. Whether the appellants were erroneously held to be tenants in respect of the suit property?

10. Learned counsel for the appellants has vehemently contended that both the courts below have committed manifest illegality and patent error in law by recording findings affirming the ownership of the respondent/plaintiff, while completely disregarding the material and undisputed fact that the appellants are owners in settled, continuous, and lawful possession of the suit property. It is further submitted that, even assuming *‘arguendo’* that the original title did not vest in the appellants, they have, in any event, perfected their title by way of adverse possession through long, open, hostile, and uninterrupted possession to the knowledge of the true owner.



11. In support of his submissions, learned counsel has placed reliance upon the judgment rendered by this Court in **Hukum Chand and others v. Daya Ram and others, 2015(4) PLR 776**, and has contended that the Courts below have failed to appreciate and apply the settled principle of law embodied under Section 110 of the Indian Evidence Act, which is a statutory reiteration of the well-established Roman law maxim that possession carries a presumption of title commonly expressed as “possession is nine points of the law.” The impugned findings, it is urged, therefore suffer from non-consideration of relevant legal principles and material evidence on record and are liable to be set aside.

11.1. Both the Courts below have concurrently recorded findings affirming the ownership of the suit land in favour of the respondent/plaintiff on the basis of a judgment passed in appeal, founded upon a lawful compromise arrived at between Shadi Nath and Parshadi Nath. As per the said judgment, a certified copy of which has been exhibited as Ex. PW-3/B, Shadi Lal was conclusively declared to be the owner of a two-thirds share in the *Tabela*, which is the property forming the subject matter of the present dispute.

11.2. It stands duly and cogently established on record that Shanti Devi is the wife of Vishwanath, and she has categorically deposed that Vishwanath was the son of Shadi Nath. Significantly, this material assertion remained wholly unchallenged during cross-examination, and in the absence of any confrontation or rebuttal, the said fact is deemed to have been admitted in evidence. There is, moreover, a complete lack of any contrary material or evidence on record disputing or negating the filial relationship between Vishwanath and Shadi Lal.



12. It is also an admitted position that the property in dispute is known and described as a *Tabela*, a fact which has been unequivocally acknowledged by Rohtash, one of the appellants, who appeared as RW-4 and made an express admission to this effect in his testimony. In addition thereto, both the courts below have rightly placed reliance upon a copy of the rent note, by virtue of which the *Tabela* was let out to Sheobaksh and Mangal. The said rent note, tendered into evidence as Ex. PW-3/A, is dated 22nd Jeth, 1974 and is a document more than thirty years old. Consequently, in view of the statutory presumption available under Section 90 of the Indian Evidence Act, 1872, the courts below were fully justified in acting upon the said document without insisting upon its formal proof.

12.1. The learned First Appellate Court, in paragraph 10 of its judgment, has specifically observed that the said rent note is *per se* admissible in evidence, being a document executed more than eight decades ago, and that there was no necessity to prove the same by examining either the scribe or the attesting witnesses, particularly when none of them was shown to be alive at the relevant point of time.

12.2. It has further come on record that the appellants/defendants are closely related to Sheobaksh and Mangal, the original tenants. In these circumstances, their possession over the suit property has been rightly and consistently recorded by both the courts below as that of tenants. Once the ownership of the respondent/plaintiff stands conclusively proved on record on the strength of the judgment Ex. PW-3/B she being the lawful successor of Shadi Nath as his daughter-in-law and the wife of his son Vishwanath the reliance sought to be placed by the appellants upon the decision in **Hukum Chand and others** (*supra*) is clearly misconceived and inapplicable to the facts



of the present case. In that case, the factual matrix and legal issues were materially distinct, and the ratio laid down therein does not advance the case of the appellants herein, as is evident from the following observations:-

“Section 110 of the Evidence Act is a re- statement of Roman law principle of the possession being nine points in law. If there is a claim to ownership of any property of which is shown to be in possession of the defendant then the burden of proving that he is not the owner shall be on the person who wants the property to be recovered. A plaintiff who files a suit for mandatory relief of injunction and for removal of construction on the claim that the property belongs to him, literally admits the defendant to be in possession. He cannot secure a mandatory relief without proving that he has got better right than the defendant. As regards the vacant land, possession invariably follows title. The relief of preventive injunction sought by the plaintiffs in respect of a vacant land could obtain value and credence only if he is able to show that he has title to the property to claim such a relief.”

13. In the present case, the respondent/plaintiff has successfully and conclusively established her ownership over the suit property, as well as the legal status of the appellants/defendants as tenants therein. In view of these categorical and concurrent findings of fact, duly supported by documentary and oral evidence on record, the reliance placed by the appellants upon the cited authority is wholly misplaced and does not advance their case, the said precedent being clearly distinguishable on facts and inapplicable to the controversy at hand.

13.1. Having regard to the observations and conclusions recorded herein-above, this Court finds no illegality, perversity, or infirmity in the impugned judgments and decrees passed by the courts below. The appeal, being devoid of merit and substance, is accordingly dismissed.



14. Since the principal appeal has now been adjudicated and stands finally disposed of on merits, all ancillary, interlocutory, or pending application(s), if any, are shown to be subsisting on the record shall, by necessary implication, also stand disposed of, as no separate orders are required thereon.

16.12.2025
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

- (i) Whether speaking/reasoned : Yes/No
- (ii) Whether reportable : Yes/No