



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

RSA-591-2000 (O&M)

Reserved on :- 30.10.2025

Pronounced on :-06.11.2025

Nagar Panchayat, Jandiala

... Appellant

Versus

Sham Lal and Another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Mr. H.S. Ghuman, Advocate
for the appellant.

MR. Tara Chand Dhanwal, Advocate
for respondent No.1.

VIRINDER AGGARWAL, J.

1. The present Regular Second Appeal (hereinafter referred to as “RSA”) has been instituted by the appellant/respondents under Section 41 of the Punjab Courts Act, 1918, assailing the concurrent judgments and decrees passed by the learned Additional Civil Judge (Senior Division), Phillaur, and the learned Additional District Judge, Jalandhar. The appellant contends that the concurrent findings of the Courts below are vitiated by errors of law and fact, being the product of manifest misappreciation of evidence, resulting in grave miscarriage of justice and substantial prejudice to the appellant, thereby necessitating the interference of this Court in the exercise of its appellate jurisdiction under the aforesaid 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 seeks decrees of permanent and mandatory injunction concerning the suit property comprising a shop, verandah, and tin shed marked ABCD in red on the site plan. The premises were originally taken on rent by Sohan Lal, father of the plaintiff, from defendant No.1 about sixty years ago at a monthly rent of ₹60/-, later enhanced to ₹125/-, and rent was paid up to September 1994. Sohan Lal remained in continuous tenancy until his death, whereafter the plaintiff, who had been jointly running a tea-stall business with him, continued in lawful possession.

It is alleged that defendant No.2, having no right or title, illegally raised a wall at point CD, obstructing access to the shop and disrupting the plaintiff’s livelihood. A dispute regarding ownership of the property is pending between defendants No.1 and 2 before the Joint Development Commissioner, Punjab, wherein a status quo order was passed on 01.06.1994. The plaintiff contends that the impugned act has rendered his business defunct, causing irreparable loss and injury.”

3. Upon issuance of summons, defendant No.1 entered appearance and filed a written statement substantially supporting the plaintiff’s case. It was asserted that the wall in dispute was erected by defendant No.2 pursuant to a stay order granted by the Joint Development Commissioner, Punjab. Defendant No.1 further contended that he continues to remain in lawful possession of the disputed and adjoining property, and that the question of



ownership is sub judice before the DDPO-cum-Collector, Jalandhar. In these circumstances, it was prayed that the plaintiff's suit be decreed in accordance with law.

3.1. Defendant No.2 filed a written statement contesting the suit, raising preliminary objections that the plaintiff has no locus standi, the suit is not maintainable, and suffers from misjoinder and non-joinder of necessary parties. It was also pleaded that the plaintiff has suppressed material facts and is not entitled to equitable relief.

3.2. On merits, defendant No.2 denied all allegations, contending that the plaintiff failed to identify the disputed property by its correct *khasra* numbers, which actually forms part of the land owned and possessed by her. It was further asserted that the Gram Panchayat is the rightful owner of the suit property and had obtained possession through an ejectment order passed by the DDPO, Jalandhar. The construction of the wall was claimed to be lawful and within her proprietary rights. Defendant No.2, therefore, prayed for dismissal of the suit with costs.

4. The respondents/plaintiff have filed a replication, specifically controverting the averments made in the written statement and reaffirming the assertions and claims set out in the plaint. Upon a meticulous examination of the pleadings and the respective contentions of the parties, the Court has been pleased to frame the following issues for determination, with a view to securing a focused, comprehensive, and judicious adjudication of the matters in controversy between them, which are as under:-

1. Whether the plaintiff is entitled to the injunction as prayed for? OPP



2. Whether the plaintiff has no locus standi to file the present suit?OPD

3. 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 Additional Civil Judge (Senior Division), Phillaur having carefully considered the pleadings, material on record, and submissions advanced, decreed the suit and observed that *“In view of the foregoing findings, the plaintiff’s suit is decreed for permanent injunction, restraining the defendants from interfering with, damaging, or dispossessing the plaintiff from the disputed shop as described in the headnote. It is further decreed for mandatory injunction, directing defendant No.2 to remove the wall marked CD in the site plan Ex.P1, with costs in favour of the plaintiff. However, defendant No.2 may seek possession of the property through due process of law. Decree sheet be prepared accordingly.”* Aggrieved by this judgment and decree, an appeal was filed before the learned Additional District Judge, Jalandhar, which was dismissed by observing that *“In view of the foregoing discussion, the appeal is devoid of merit and is accordingly dismissed, with no order as to costs.”*

6. The appellant has preferred the present appeal, impugning the concurrent judgments and decrees passed by the learned Courts below, which were duly admitted to regular hearing. Pursuant to such admission, notices were issued to the respondents. While respondent No.2 initially entered appearance through counsel but later chose not to pursue the matter, respondent No.1 alone continued to represent and advance submissions



before this Court. Consequently, the entire record of the subordinate Courts was summoned to facilitate a comprehensive evaluation and judicious determination of the issues arising for consideration on merits.

7. I have carefully heard the learned counsel for the appellant at length and bestowed my anxious consideration upon the submissions advanced, in the light of the pleadings, evidentiary material, and the concurrent findings recorded by the Courts below. The record has been meticulously perused to examine the rival assertions and to determine *‘whether the impugned judgments and decrees suffer from any jurisdictional error, perversity, or legal infirmity of such magnitude as to justify appellate interference within the parameters of Section 41 of the Punjab Courts Act, 1918?’*

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. Learned counsel for the appellant vehemently contended that the learned Courts below have fallen into manifest error by grossly misreading and misappreciating the evidence on record. It was submitted



that the ownership of the suit property stands conclusively established in favour of the appellant through unimpeachable revenue entries. The orders passed by the DDPO, being lawful and binding, could not have been disregarded by the Civil Courts. Counsel further urged that the respondent-plaintiff, being a mere lessee, possessed only a limited right of occupation during the subsistence of the lease; once an order of ejectment was duly passed, he was legally bound to vacate and surrender vacant possession of the premises to the appellant, the rightful owner thereof.

10. Learned counsel for the respondent/plaintiff contended that the concurrent findings of the Courts below suffer from no illegality, perversity, or '*infirmum iudicium*'. It was upon the appellant/defendant to establish that the documents relied upon indeed pertain to the suit property; having failed to discharge this burden, the appellant's claim was rightly *repudiated* '*sub silentio*' by both the Courts below. Hence, the concurrent adjudications warrant no interference in appellate review.

10.1. The respondent/plaintiff instituted the suit asserting that the property delineated as 'ABCD' in the site plan, and more fully described in the headnote of the plaint, is in his lawful possession as a tenant under defendant No.1-The New Sutlej Transport Company Pvt. Ltd. Per contra, the appellant/defendant-Gram Panchayat contended that the shops in question were erected upon Panchayat land leased to defendant No.1, whose leasehold rights have since been duly terminated, culminating in an order of ejectment. It was urged that the Courts '*infra*' failed to duly '*ad advertendum*' to the revenue record, *Jamabandi* for the year 1996-97 which unequivocally records the Gram Panchayat as '*proprietor in titulo*' of land measuring 1 kanal 6 marlas comprised in Khasra No. 804/1, classified as

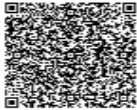


Gair Mumkin Toad. Further, the DPO, Rurka Kalan, vide order dated 08.01.1968, annulled the resolution of the Gram Panchayat leasing the said land to defendant No.1, and subsequently, the DDPO, Jalandhar, vide order dated 20.03.1997, directed the ejectment of Sham Lal, the respondent/plaintiff, from the disputed shop. It was additionally contended that '*ex consequenti*', by virtue of Notification dated 06.04.1998, the area of village Jandiala stood declared as a Nagar Panchayat, whereupon the suit land '*ipso jure*' vested in the Municipal Council, Jandiala.

11. A perusal of the findings recorded by the learned Additional Civil Judge (Senior Division), Phillaur, reveals that the orders purportedly passed by the DDPO, as relied upon by the appellant–defendant, were never proved in accordance with law. Only photostat copy, marked as Mark 'Y', were tendered in evidence, which, being secondary evidence without foundational proof, were rightly excluded from consideration. Similarly, the Panchayat resolution Mark 'X' was *ex facie* inadmissible and was justifiably discarded for want of due proof.

11.1. The Jamabandi (Ex.D2) indeed reflects ownership of Khasra No. 804/1 in the name of the Gram Panchayat; however, '*correlatio loci*' between the said Khasra number and the demarcated boundaries of the suit property, as depicted in the site plan marked "ABCD," was never established. The learned Trial Court, therefore, correctly held that the appellant-Gram Panchayat failed to establish nexus probandi between the revenue record and the property in dispute.

11.2. The learned First Appellate Court, advertent to the pleadings, further observed that the appellant neither pleaded any specific Khasra number pertaining to the suit property in its written statement nor adduced



cogent evidence linking Jamabandi Ex.D2 or the alleged DDPO orders to the subject property. During the hearing of the present appeal, the learned counsel for the appellant once again sought to rely on the purported DDPO order annulling the Panchayat resolution and directing eviction of the occupants; however, the same, not having been proved ‘*per legem*’, carries no evidentiary value.

11.3. Resultantly, both the Courts *infra* have rendered concurrent findings ‘*ex debito justitiae*’ that suffer from no legal infirmity or perversity. Consequently, finding no merit ‘*substantia materia*’, the present appeal stands dismissed simpliciter.

12. Consequent upon the final adjudication of the main appeal, all pending miscellaneous application(s), if any, stand disposed of in view of the judgment rendered herein. No further orders are required.

06.11.2025
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

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