



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

1. RSA-3916-1998 (O&M)
Reserved on :-29.10.2025
Pronounced on:-03.11.2025

Haryana State through Collector, Hisar and Another
... Appellants
Versus
Raja Ram
... Respondent

2 RSA-3924-1998 (O&M)

Haryana State through Collector, Hisar and Another
... Appellants
Versus
Raja Ram
... Respondent

3. RSA-3963-1998 (O&M)

Haryana State through Collector, Hisar and Another
... Appellants
Versus
Raja Ram
... Respondent

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-
Mr. Manish Dadwal, AAG, Haryana (in all RSAs).

Mr. Divyanshu Bansal, Advocate,
Ms. Navdeep Kaur, Advocate and



Ms. Tejasvi Luthra, Advocate
for the respondents (in all RSAs).

VIRINDER AGGARWAL, J.

1. This common judgment is being rendered in exercise of the powers conferred under Section 41 of the Punjab Courts Act, 1918, to govern and dispose of the captioned Regular Second Appeals (hereinafter referred to as “RSAs”). All the present appeals arise out of common judgments and decrees passed by the Courts below, and they pertain to the same set of transactions, involving identical questions of law and fact.

1.1. In view of the admitted commonality of issues, the identity of the parties across the connected matters, and the concurrence expressed by the learned counsel appearing on both sides, it is deemed appropriate, in the interest of judicial economy and consistency in adjudication, to decide these appeals collectively by way of a single, composite judgment. Such a course, sanctioned by Section 41 of the Punjab Courts Act, serves the dual purpose of ensuring uniformity in legal interpretation and avoiding the risk of conflicting or divergent findings arising from substantially the same factual and legal matrix.

2. At the joint request of the learned counsel representing the parties, the factual matrix for the purpose of this common judgment is being delineated from the pleadings, records, and material placed on file in the respective RSAs, along with the corresponding replies and documents duly forming part of the record. This approach has been adopted to ensure that the narrative of facts is both comprehensive and accurate, capturing the entirety



of the relevant background essential for a proper adjudication of the issues in controversy. The Court has, therefore, considered all pertinent aspects arising from the connected appeals in a consolidated manner, so that no material fact or circumstance bearing upon the determination of the present disputes remains unexamined or excluded from consideration.

3. The appellants/respondents, being aggrieved by the judgment and decree dated 13.06.1998 rendered by the learned Additional District Judge, Hisar in Civil Appeal Nos.136, 137 & 138 of 30.07.1996/21.06.1997, whereby the well-reasoned judgments and decrees dated 08.06.1996 passed by the learned Civil Judge (Junior Division), Fatehabad in Civil Suit Nos. 600-C, 609-C and 611-C of 18.07.1992 were erroneously reversed, most respectfully invoke the appellate jurisdiction of this Court under Section 41 of the Punjab Courts Act, 1918 by way of the present RSA. The appellants seek restoration of the decree rightly and lawfully passed by the learned Trial Court, and redressal of the substantial injustice occasioned by the impugned reversal.

3.1. It is respectfully submitted that the impugned judgments and decrees suffer from patent perversity, being vitiated by errors apparent on the face of the record, misapplication of settled principles of law, and gross misappreciation of evidence, thereby culminating in a manifest miscarriage of justice. In these circumstances, the appellants humbly beseech the intervention of this Court to set aside the impugned judgment and decree and to restore the well-reasoned and legally sustainable decree of the learned

Trial Court.



RSA-3916-1998

4. To ensure clarity and convenience in the course of this discussion, the parties will hereinafter be referred to as the *plaintiffs* and *defendants*, consistent with their status before the learned Trial Court. The essential facts leading to the institution of the present proceedings are set out below:-

“The suit land comprising Khasra Nos. 88//17 (8-0), 17 (8-0), 18 (8-0), 23 (8-0), 24 (8-0), and 25 (8-0), measuring 40 Kanals and situated in Village Nathwan, Tehsil Ratia, District Hisar, was leased to the plaintiff for the period 1958–1978 at a rate of Rs. 12.50 per acre under Shemshar Singh s/o Bihara Singh. The plaintiff has remained in continuous cultivating possession of the said land since then. Subsequently, a notice issued through the Halka Patwari by the Kanungo’s office directed him to vacate the possession within ten days, thereby threatening his lawful possession and necessitating the institution of the present suit.”

4.1. Upon service of notice, the defendants appeared and filed a written statement, raising preliminary objections as to jurisdiction, absence of notice under Section 80 CPC, bar of limitation, and want of *locus standi* on the part of the plaintiff.

4.2. On merits, the defendants admitted paragraph No. 1 of the plaint and the issuance of notice to the plaintiff, but contended that the land, allotted under the East Punjab Land Utilisation Act, could be declared



surplus without affording notice to the allottee. All other averments were specifically denied as unfounded.

RSA-3924-1998

5. To ensure clarity and convenience in the course of this discussion, the parties will hereinafter be referred to as the *plaintiffs* and *defendants*, consistent with their status before the learned Trial Court. The essential facts leading to the institution of the present proceedings are set out below:-

“The suit land comprising Khasra Nos. 88//6 (8-0), 15 (8-0), 16 (8-0), 89//11 (7-12), and 20 (7-12), measuring 39 Kanals 4 Marlas and situated in Village Nathwan, was leased to Sheo Chand s/o Bagrawat, r/o Kirmara, for the period 1958–1978. The land, being Banjar Kadim, was rendered cultivable by the plaintiff, who has since remained in continuous cultivating possession. The Nehri Girdawari stands recorded in his name, and he regularly pays the canal rent.

It is further averred that Sarvan Singh s/o Ram Singh has been wrongly shown as gair-morusi in the revenue record, though no such person has existed in Village Nathwan since 1958, and he has no connection with the suit land. The Jamabandis from 1960-61 to 1985-86 are therefore sought to be corrected in favour of the plaintiff. A notice issued by the Kanungo’s office in the name of Sarvan Singh directing delivery of possession within ten days was received by the



plaintiff on 09.07.1992, threatening dispossession and compelling the institution of the present suit.”

5.1. Upon service of summons, the defendants entered appearance and filed a written statement, raising preliminary objections as to jurisdiction, non-compliance with Section 80 CPC, bar of limitation, and absence of *locus standi*.

5.2. On merits, the defendants admitted that the land had been leased to Sheo Chand s/o Bagrawat, r/o Kirmara, for the period 1958–1978, and that Sarvan Singh s/o Ram Singh is recorded as gair-morusi under him. They further averred that the land was declared surplus by the Collector, Hisar, vide order dated 23.04.1965. All other averments in the plaint were specifically denied as false and unsustainable.

RSA-3963-1998

6 To ensure clarity and convenience in the course of this discussion, the parties will hereinafter be referred to as the *plaintiffs* and *defendants*, consistent with their status before the learned Trial Court. The essential facts leading to the institution of the present proceedings are set out below:-

“Bhalia, son of Shibhu, resident of Village Kirmara, was granted the land of Shemshar Singh, son of Nihal Singh, on lease for the period 1958 to 1978. Bhalia thereafter sublet the suit land to the plaintiff for cultivation, and the plaintiff has remained in continuous cultivating possession thereof since 1958. The suit land comprises Khasra Nos. 97//4 (8-0), 5 (8-0),



7 (2-0), and 8 (5-0), measuring 23 Kanals, situated in Village Nathwan, Tehsil Ratia, District Hisar. It is further averred that the plaintiff received a notice dated 29.05.1992, issued by the defendant through the office of the Kanungo, Ratia, directing him to vacate the possession within ten days. The said notice and accompanying threat to dispossess the plaintiff led to the filing of the present suit.”

6.1. Upon service of notice, the defendants appeared and filed a written statement, raising preliminary objections regarding jurisdiction, absence of notice under Section 80 CPC, bar of limitation, and lack of *locus standi*.

6.2. On merits, the defendants admitted paragraph No. 1 of the plaint but contended that the civil court lacks jurisdiction to adjudicate matters pertaining to surplus land cases.

RSA-3916-1998 O&M), RSA-3924-1998 (O&M) & RSA-3963-1998 (O&M)

7. The respondents/plaintiffs filed a replication, reiterating and expressly reaffirming all material allegations contained in the plaint, while specifically traversing and refuting the defenses and contentions advanced by the respondents. Upon careful consideration of the pleadings, documents, and oral submissions, the Court has framed the following issues for determination in order to adjudicate the competing claims and defenses, which are detailed below:-



1. Whether the plaintiff is entitled to a decree for permanent injunction against the defendants on the grounds taken in the plaint ? OPP.
 2. Whether the plaintiff has no locus standi to file and maintain the suit ? OPD.
 3. Whether this court has no jurisdiction to entertain and try the present suit ? OPD.
 4. Whether the suit is pre-mature for want of notice under Section 80 C.P.C. ? OPD.
 5. Whether the suit is time barred ? OPD.
 6. Relief.
8. Both parties were afforded adequate opportunities to lead evidence in support of their respective claims. Upon the conclusion of the trial and after hearing learned counsel for the parties, the learned Civil Judge (Junior Division) Fatehabad dismissed the suit with cost by observing “*in view of the foregoing findings, the plaintiff’s suit stands dismissed with costs. Let a decree sheet be drawn*”. Aggrieved by the decree, the respondents/appellants preferred an appeal before the learned Additional District Judge, Hisar, which was allowed, resulting in the reversal of the well-reasoned judgment and decree of the learned Trial Court and observed that “*As observed here-in-above, the respondents are not entitled to dispossess the appellant except in accordance with law. Accordingly, the appeal is allowed, restraining the respondents from interfering with the appellant’s possession save by due process. Let a decree sheet be prepared*”.



9. Challenging the learned First Appellate Court's judgment and decree, the appellants preferred the instant appeals, which was admitted. Notice was served on the respondent, appeared through his counsel, and the lower Court records were requisitioned for careful examination and adjudication.

10. I have heard learned counsel and considered their submissions in conjunction with the pleadings, evidence, and the findings of the lower Courts. The record has been scrutinized to determine '*whether the impugned judgments and decrees are vitiated by any legal error or infirmity warranting interference*'?

11. 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.

12. The learned State counsel strenuously contended that both the Courts below fell into error in holding that the appellants/defendants sought to assume possession '*sine lege*' (without authority of law), and further *misconstrued* the legal position in concluding that the Civil Court retained



jurisdiction, '***non obstante***' the express bar under Section 26 of the Haryana Ceiling on Land Holdings Act, 1972 (hereinafter referred to as "the Act of 1972"). Nevertheless, it is trite law that where an authority acts *ultra vires* the statute, the jurisdiction of the Civil Court is not ousted, as reaffirmed by this Court in **State of Haryana v. Sish Ram (through LRs), 2012 SCC OnLine P&H 62**, the relevant extract of which is reproduced *infra*:-

"11. As regards the bar envisaged under Section 26 of the 1972 Act is concerned, it is well settled that whenever an authority exercises its powers in violation and in utter disregard of the statute, the jurisdiction of the Civil Court would not be ousted. This Court in Bhag Mal v. Ram Murti, decided on 3.8.2004 and reported as 2005 (1) PLR 116, had observed in the following terms:

"16. The argument that suit of the plaintiffs-respondents was not maintainable in view of the bar created by Section 26 of the 1972 Act, would not require any detailed consideration because once it is found that the principles of natural justice have been violated and no process under Section 14 to separate the surplus area was undertaken after affording an opportunity of hearing, then, the ratio of Full Bench judgment of this Court in Vinod Kumar's case (supra) would come into play and the suit would be maintainable despite the bar created by Section 26 of the 1972 Act. The Civil Court cannot be deemed to have waived the jurisdiction in cases where a plaintiff complains of violation of principles of natural justice and wanton disregard to the provisions of law. Therefore, the argument raised by the learned counsel that it is a mere irregularity as provided by Section 99 of the Code of the jurisdiction is barred by virtue of



Section 26 of 1972 Act, would be completely misconceived. The Full Bench of five Judges placed reliance on two judgments of the Supreme Court in the cases of Katikara Chintamani Dora v. Guatreddi Annamanaidu, AIR 1974 SC 1069 and Kamala Mills Limited v. State of Bombay, AIR 1965 SC 1942. In both the aforementioned judgments, it has been authoritatively held by the Supreme Court that exclusion of the Civil Court is subject to two limitations:-

(1) The Civil Court would still enjoy jurisdiction to examine the cases where the provisions of a statute have not been complied with or the statutory tribunal has not acted in conformity with the fundamental principles of Judicial procedure;

(b) The Civil Court is also entitled to examine exact extent to which the powers of statutory tribunals are exclusive.

17. After examining the aforementioned Supreme Court judgments and other judgments, their Lordships of the Full Bench have observed as under:-

"In the fact of this authoritative pronouncement there is no room for any doubt that if an order is passed by a tribunal of limited jurisdiction without issuing a notice to the concerned party, the order would be a nullity and open to challenge in the Civil Court even if the statute expressly bars the jurisdiction of the Civil Court to entertain a suit to challenge the validity or legality of the order passed by such a tribunal. This question was once again considered by a Constitution Bench of the Supreme Court in Dhulabhai v. State of Madhya Pradesh, AIR 1969 SC 78, and the seven principles contained in the judgment of the learned Chief Justice were



enunciated. The scope of the observations made and the rule laid down in Kamala Mill's case (supra) came under specific consideration of the Bench and it was observed that the Special Bench (In Kamala Mill's case), refrained from either accepting the dictum of Mask Co's case 67 Ind. App. 222: AIR 1940 PC 105 or rejecting it, to the effect that even if jurisdiction is excluded by a provision making the decision of the authorities final, the civil Courts have jurisdiction to examine into cases where the provisions of the particular Act are not complied with. The jurisdiction of the civil Court to try the suits against the orders passed by the Tribunal of Special jurisdiction in violation of the provisions of the statute or principles of natural justice was thus upheld even through the jurisdiction of civil Court to question the legality or validity of the orders of the Tribunal was expressly barred by the statute."

13. In the instant case, the impugned notice of ejectment was issued by the 'Kanungo', seeking to dispossess the respondent/plaintiff from the suit land. It stands admitted that the respondent-plaintiff is a tenant holding over. Under Section 22 of the Act of 1972, the authority to evict an occupant in unauthorised possession vests exclusively in the Collector. The assumption of such power by an officer subordinate in rank is patently '*ultra vires*' and contrary to the statutory mandate. The Courts below, therefore, rightly held that the respondent's possession cannot be interfered with except in accordance with law. In view thereof, the present appeal(s), being devoid of substance, stand dismissed on merits.

14. Since the principal matter(s) has been finally adjudicated on merits, all pending miscellaneous applications, if any, shall stand disposed of



accordingly, as no separate orders are warranted. No further directions are called for in view of the final disposal of the main case.

15. A photocopy of this judgment shall be annexed to each of the connected case files to ensure consistency of record, facilitate ready reference, and enable due compliance with the findings and directions contained herein.

03.11.2025
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

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