



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

1.

**RSA-831-1998 (O&M)
Reserved on :- 14.10.2025
Pronounced on:-28.10.2025**

Bhupinder Singh (Since Deceased) Through His LR's and Others

... Appellants

Versus

Municipal Committee, Rampura Phul and Another

... Respondents

2.

COCP-632-2014 (O&M)

Bitu singh @ Jasbir Singh and Others

... Petitioners

Versus

Rajpal Singh Makkar and Others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Ms. Ayesha Jain, Advocate
for appellants No.1 to 4 and 6.

Mr. B.S. Khehar, Advocate
for appellant No.5.

Mr. Munish Gupta, Advocate alongwith
Mr. Anil Saini, Advocate
for respondent No.1.

Mr. J.K. Singla, Advocate;
Ms. Shivani Singla, Advocate and
Ms. Suman Rani, Advocate
for respondent No.3 in **COCP-1620-2008**.



VIRINDER AGGARWAL, J.

1. The present common judgment is rendered to address the disposal of the aforementioned Regular Second Appeal (hereinafter “RSA”) and a connected Contempt of Court Petition (COCP), both arising from the same set of legal and factual issues. Since the parties in both matters are identical and their respective counsel have expressed no objection to joint hearing, the RSA and COCP are being adjudicated together in the interest of judicial economy.

2. At the request of the learned counsel for the parties, the factual background for this common judgment is adopted from **RSA-831 of 1998**, titled “**Bhupinder Singh (Since Deceased) Through His LRs and Others vs. Municipal Committee, Rampura and Another**”, as it comprehensively encapsulates the relevant facts. Given that the issues in the connected matters are substantially similar, the facts in **RSA-831 of 1998** are treated as representative for the purpose of adjudicating both captioned cases.

3. The instant RSA has been instituted to challenge the judgment and decree dated 09.02.1998 rendered by the learned Additional District Judge, Bathinda, in the appeal titled “**Bhupinder Singh and Others vs. Municipal Committee, Rampura and Another.**” By the impugned judgment, the learned Additional District Judge affirmed the earlier decision of the learned Additional Senior Sub-Judge, Phul, which had dismissed the suit filed by the appellants/plaintiffs in **Civil Suit No. 35 of 1988**.

4. The succinct facts of the case as presented by the appellants are as follows:-



“Land comprised in Khasra No. 724, situated within the revenue estate of Rampura, is recorded as ‘*Abadi Deh*’ and has, from time immemorial, been used and enjoyed by the inhabitants of Rampura for common and communal purposes. The appellants, being *bona-fide* residents of the locality, are in peaceful possession of a portion of the said land, which has traditionally been utilized by ‘*Bashindgan*’ for social gatherings and community functions. While a part of the land remains vacant, the remaining portion continues to be in possession and use of various residents of the village. The land in dispute is not recorded in the ownership register of the Municipal Committee, Rampura, and therefore, the said authority has no lawful right, title, or interest in it. Despite this, the respondent-Municipal Committee has illegally asserted ownership over the land and attempted to interfere with the appellants’ settled possession, even making efforts to alienate or transfer the same without any legal authority. The appellants, inspired by public welfare, had proposed to construct a charitable hospital on the vacant portion of the land for the benefit of the local community. However, in view of the respondents’ unwarranted interference and unlawful claim, the appellants were compelled to seek judicial intervention for the protection of their possession and to safeguard the collective rights of the residents of Rampura over the suit property. Hence the suit”

5. The suit was opposed by the respondents/defendants on the grounds enumerated below:-

“The respondent-Municipal Committee is the lawful owner and custodian of the land comprising Khasra No. 724, which has been duly recorded and utilized for public purposes as the old *Subzi Mandi*. It is denied that the appellants have any right, title, or possession over the suit property. The respondent further submits that the father of appellant No.2



had earlier instituted a suit concerning the same and adjoining land, which was finally adjudicated up to the Hon'ble Apex Court and decided against him. Pursuant to the said decision, the Commissioner, Ferozepur Division categorically held that appellant No.2's father (*defendant No.2 in the main suit*) was not entitled to any fresh allotment, and his claim stood rejected. The appellants, having no independent right or *locus standi*, have now filed the suit only to re-agitate an issue that already stands concluded. The respondents, therefore, assert that the suit is not maintainable, is barred by law, and beyond the jurisdiction of the Civil court, and prays that the same be dismissed with costs."

6. The appellants/plaintiffs subsequently filed a replication, in which they unequivocally reiterated and reaffirmed all material allegations contained in the plaint, while specifically denying, traversing, and refuting each of the defenses, contentions, and pleas raised by the respondents in their written statement. After a thorough examination of the rival pleadings, the learned Trial Court proceeded to frame the following issues for adjudication:-

1. Whether the plaintiffs are owners in possession of the suit property?
OPP.
2. Whether the suit is not maintainable in the present form?OPD.
3. Whether Civil court has no jurisdiction to try this suit?OPD.
4. Whether the plaintiffs are entitled to the injunction prayed for?OPP
5. Relief.

7. Both parties were afforded 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 Additional Senior Sub-Judge, Phul, dismissed the suit with costs. Aggrieved



by this judgment and decree, the appellants preferred an appeal before the learned Additional District Judge, Bathinda, which was likewise dismissed, thereby affirming the decision of the Trial Court, and observed that *‘the evidence establishes that the appellants are not indigenous to Rampura but migrants who settled there over time for livelihood. Consequently, even if the land were to be allotted to original inhabitants, the appellants would not be entitled, as they do not belong to the village’s original population’*.

8. Challenging the impugned judgment and decree of the learned First Appellate Court, the appellants have instituted the present appeal, which was duly admitted for hearing. Notice was issued to the respondents, who appeared through their learned counsel, and the records of the lower courts were requisitioned for detailed scrutiny and consideration by this Court.

9. Subsequently, petitioners/appellants No. 2, 4, and 5 filed COCP No. 632 of 2014 against the respondents, alleging willful non-compliance with the order dated 12.07.1999 (**Annexure P-1**) passed by this Court in RSA No. 831 of 1998. The petitioners advanced the following contentions in the contempt petition:-

“The petitioners, including Bittu Singh alias Jasbir Singh, resident of Mandi Rampura Phul, Tehsil Rampura Phul, District Bathinda, submit that the respondents have willfully violated the order dated 12.07.1999 (Annexure P-1) passed by this Hon’ble Court in RSA No. 831 of 1998, directing the parties to maintain status quo in possession of the suit property. The petitioners had sought a declaration that Khasra No. 724, Khatoni No. 1510, recorded as Abadi Deh, is in their lawful occupation and restraining the Municipal Committee from alienating, transferring,



leasing, or forcibly interfering with it, which is used for communal purposes.

Despite clear directions and instructions from the Deputy Commissioner, Bathinda (Annexures P-2 & P-3), the respondents interfered with the property by demolishing walls (Geeta Bhawan), constructing shops, and widening the road (Annexure P-4). This deliberate defiance of the Court's orders constitutes contempt of court, making the respondents liable for prosecution and punishment under the Contempt of Courts Act."

10. Upon notice of the petition, all the respondents appeared through their respective counsel and respondents No.1 and 2 filed written reply, but later on respondents No.1 and 2 opted not to appear in the petition, but respondent No.3 continues. Relevant part of replies filed by respondents No.1 and 2 is as under:-

**"Reply on behalf of respondent No.1-Rajpal Singh Makkar,
Execution Officer of Municipal Committee, Rampura Phul.**

The allegations in the contempt petition, except those specifically admitted, are denied. The respondent has at all times acted in full compliance with the orders of this Hon'ble Court, and the petition is misconceived. The property in dispute is lawfully owned and possessed by the Municipal Committee, Rampura Phul, while the petitioner's claim is in a representative capacity after dismissal of an identical suit by his father. Allegations regarding demolition of walls and road widening are incorrect, as the site plan (Annexure R-1/1) shows that the works were confined to vacating excess occupation by Geeta Bhawan and restoring road access, without violating the Court's orders. The petition is therefore without merit and liable to be dismissed."



“Reply on behalf of respondent No.2-Happy Bansal, Ex-President Nagar Council, Rampura Phul, Janta Colony, District Bathinda.

The allegations in the contempt petition, except those specifically admitted, are categorically denied. The respondent has at all times fully complied with the orders of this Court, and the petition is misconceived and intended to mislead. The dispute relates to property lawfully owned and possessed by the Municipal Council, Rampura Phul, while the petitioner’s claim is in a representative capacity following dismissal of an identical suit by his father. Allegations regarding demolition of walls and widening of the road are factually incorrect; the site plan (**Annexure R-2/1**) demonstrates that the works were confined to vacating excess occupation by Geeta Bhawan and restoring proper road access, without contravening any Court order. Moreover, the petitioner’s allegation against the respondent is untenable, as his term as President ended on 21.07.2013 (**Annexure R-2/2**), prior to the Deputy Commissioner’s order dated 25.07.2013. Accordingly, the petition is without merit and liable to be dismissed.”

11. I have heard learned counsel for the parties at length, and their submissions have been carefully considered in the context of the pleadings, evidence on record, and the findings of the Courts below. The record has been meticulously examined to evaluate the rival contentions and to ascertain whether the impugned judgments and decrees suffer from any legal infirmity, error, or perversity warranting interference in the present appeal.

12. 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.

13. Learned counsel for the appellants eloquently articulated and vehemently argued that the Courts below have fallen into a grave error in treating *Abadi-Deh* as synonymous with *Shamlat-Deh*, solely by reference to the provisions of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as “the Act”). It was contended that the mere existence or operation of the Act does not, per se, convert *Abadi-Deh* land into *Shamlat-Deh*. Drawing attention to the statutory language, counsel emphasized that Section 2(g)(iv) of the Act explicitly defines *Shamlat-Deh* to comprise only those lands which are used or reserved for the common benefit of the village community such as grazing pastures, ponds, and other communal utilities. Consequently, before any portion of *Abadi-Deh* can be categorized as *Shamlat-Deh*, it must be affirmatively proved, by clear and cogent evidence, that such land was either reserved for communal purposes or actually utilized for the collective benefit of the villagers. The mere inclusion of land within the geographical limits of *Abadi-Deh*, or its physical proximity thereto, cannot, in itself, justify its classification as *Shamlat-Deh* under the Act. It was, therefore, urged that the Courts below have failed to properly appreciate the statutory distinction between *Abadi-Deh*,



representing individual or proprietary holdings situated within the village habitation, and *Shamlat-Deh*, denoting lands that are collectively owned, managed, or used for the common benefit of the village community. The relevant provisions of the Act are reproduced hereinbelow for ready reference:-

2(g): 'Shamlat Deh' or charand includes:-

- 1) Land described in the revenue record as shamlat deh or charand excluding the "Abadi-deh".
- 2)
- 3)
- 4) Lands used or reserved for the benefit of the village community including streets, lanes, play grounds, schools, drinking wells, or ponds within Abadi deh or gora deh.
- 5)

13.2. Learned counsel for the appellants assailed the impugned judgment of the learned First Appellate Court on multiple legal and factual grounds. It was contended that the finding declaring the suit property to be *Shamlat-Deh* and vesting it in the Municipal Committee, Rampura Phul, is patently erroneous and legally untenable. The learned Appellate Court, it was argued, failed to appreciate that under Section 2(g)(iv) of the Punjab Village Common Lands (Regulation) Act, 1961, a property can be classified as *Shamlat-Deh* only upon clear proof that it was reserved or utilized for common purposes benefiting the village community. In the absence of such evidence, no presumption of communal ownership can be drawn, and the Municipal Committee cannot assert any proprietary or possessory rights over the land.



13.3. The counsel further argued that reliance placed by the learned Appellate Court on Municipal Register Ex.D5 is wholly misplaced. The said register merely refers to an “old Sabzi Mandi” but contains no material or documentary correlation linking it to Khasra No. 724, the suit property in dispute. In the absence of any such nexus, Ex.D5 cannot be treated as admissible or probative evidence establishing either the identity of the land or the ownership of the Municipal Committee.

13.4. Attention was also drawn to the *Jamabandi* entries, which clearly record the suit property as *Abadi-Deh* in the possession of the *Bashindgan Deh* (inhabitants of the village). These contemporaneous revenue records, being maintained in the regular course of official duty, constitute the most reliable and authoritative evidence of title and possession. The same, it was urged, stand in direct contradiction to the respondent’s claim and fortify the appellants’ lawful possession over the property.

13.5. To reinforce the contention, learned counsel relied on a catena of judicial precedents wherein it has been consistently held that land cannot be treated as *Shamlat-Deh* merely upon the expansion of municipal limits or administrative reclassification. The onus lies squarely upon the local authority to establish, by credible and specific evidence, that the land was vested in it in accordance with law.

13.6. In view of the foregoing submissions, it was earnestly urged that the suit property constitutes *Abadi-Deh*, lawfully owned and possessed by the appellants, and does not fall within the definition of *Shamlat-Deh* under the Act. Consequently, the findings recorded by the learned Additional



District Judge and the claim of the Municipal Committee, being unsupported by any cogent evidence or statutory foundation, are liable to be set aside, and the appellants' claim deserves to be upheld.

14. Learned counsel for the respondents, in emphatic refutation of the arguments advanced and in response, has vigorously refuted the appellants' submissions and defended the concurrent findings of the Courts below as being legally sound and factually well-founded. It is contended that the predecessor-in-interest of the appellants, namely Dalip Singh father of appellant No.2, Bittu Singh @ Jasbir Singh had, in earlier proceedings, made an unequivocal and categorical admission acknowledging that the property known as the "old Sabzi Mandi" is situated within Khasra No. 724. This admission, being clear, voluntary, and unambiguous, constitutes substantive evidence against the appellants and binds them under law. Such a judicial admission, it was urged, conclusively negates the appellants' present assertion of exclusive ownership or possession over the disputed property.

14.2. Further, learned counsel drew the Court's attention to the contemporaneous records maintained by the Municipal Committee, which consistently and unequivocally identify the suit property as forming part of the "old Sabzi Mandi" situated within Khasra No. 724. These records, it was submitted, are official in nature, prepared in the regular course of municipal administration, and carry a presumption of correctness under the law. The appellants, on the other hand, have failed to produce any credible documentary or oral evidence capable of displacing the evidentiary value of these records or rebutting the admission previously made by their predecessor.



14.3. It was further contended that the appellants' attempt to resile from the earlier admission of their predecessor is impermissible in view of the well-established *doctrine of estoppel*. Having derived their claim through Dalip Singh, the appellants are legally precluded from taking a position inconsistent with his prior acknowledgment. The said admission, being a conscious statement of fact made in prior judicial proceedings, constitutes conclusive evidence and cannot now be contradicted to the detriment of the respondents.

14.4. Learned counsel further maintained that, when examined in the light of the documentary and evidentiary record, the appellants' claim that the property neither forms part of the old Sabzi Mandi nor constitutes *Shamlat-Deh* is wholly untenable, both in law and on facts. The ownership, possession, and character of the property stand firmly established in favour of the Municipal Committee, and the appellants' reliance on the plea of *Abadi-Deh* or prior user by villagers is entirely misconceived and unsustainable.

14.5. In view of the aforesaid, it was urged that the concurrent findings recorded by the learned Trial Court and the learned Additional District Judge, holding that the suit property forms an integral part of the old Sabzi Mandi comprised in Khasra No. 724 and vests in the Municipal Committee, Rampura Phul, are fully justified, well-reasoned, and supported by the evidentiary record. The appellants' challenge, being devoid of merit and contrary to both statutory provisions and factual realities, deserves outright dismissal.



15. Before delving into the controversy, Paragraph No. 6 of the plaint merits consideration and is reproduced below for reference:-

“6. That the above said property comprising of Khasra No.724 measuring 34 kanal 8 marlas is situated in Mandi Rampura, Tehsil Rampura Phul, District Bhatinda and does not vest in the Municipal committee, Rampura Phul, & the Municipical committee, has no right & title over the property which exclusively belongs to Abadi Deh. Even the property register of the Municipal commitee, Rampura Phul does not incorporate the above said Khasra No. and the municipal committee has no concern with it. That Dalip Singh defendant No.2 is in unauthorised possession of the land measuring 14 x 135 with Soda Water factory & second plot 20'x16 including varandah & wooden fixture with Soda water factory having mattelled foundation.”

15.1. From the averments of the plaint, it is evident that the only individual shown to be in possession of any specific portion of the suit property is defendant No.2-Dalip Singh, who is also the father of plaintiff No.2-Bittu Singh. It appears that the present suit has been instituted by the son of defendant No.2, along with others, with the primary objective of safeguarding the possession of defendant No. 2, who had previously litigated the matter up to the Hon'ble Supreme Court. Both the lower Courts have recorded this fact. Commissioner, Ferozepur, in an order dated 16.11.1987 (Ex.D3), specifically held that Dalip Singh was not entitled to the allotment of the portion marked as encroached and, in compliance with the directions of the Hon'ble Supreme Court, was required to vacate the premises forthwith. The present suit, filed subsequently on 15.01.1988, in Paragraph No. 6, specifically pleads the unauthorized possession of defendant No. 2,



indicating that the suit is essentially a stratagem to protect the possession of Dalip Singh, which could not be achieved through prior litigation.

15.2. Further, it is averred in Paragraph No. 3 of the plaint that the suit property is utilized for common purposes. The relevant portion of Paragraph No. 3 is reproduced below for reference:

3. That the abovesaid land has been used by the residents of Mandi Rampura Phul, and was used for common functions of the residents of mandi Rampura Phul, Tehsil Rampura Phul, District Bhatinda.

15.3. It is settled law that relief denied directly cannot be circumvented indirectly. The learned Courts below have correctly recognized this and held that none of the plaintiffs has possession over any specific portion of the suit property. The learned First Appellate Court rightly concluded that the suit property is being used for common purposes, as admitted by the plaintiffs in Paragraph No. 3 of the plaint. The property came under the ownership of the Municipal Committee, Rampura Phul, from 1949, upon its establishment in place of the Gram Panchayat, with all rights and assets of the former Gram Panchayat vesting in the Municipal Committee a fact correctly noted in Paragraph No. 8 of the First Appellate Court's judgment.

16. In previous litigation defendant No,2, who is father of plaintiff No.2 has admitted that suit land to be as old Subji-Mandi which has been shown as ownership of Municipal Committee as per property registration Ex.D5. As regards the contention of the learned counsel for the appellants that mere use for common purposes is insufficient unless the land is formally



reserved under the Consolidation Scheme, it is observed that the suit property fell within the jurisdiction of the Municipal Committee by 1950, making it urban land and thereby the provisions of the Punjab Villages Common Land (Regulation) Act, 1961 are not applicable on the land. Further, none of the plaintiffs or other inhabitants has been shown to possess or own any specific portion of the land, except defendant No. 2, who was held to be in unauthorized possession under the Municipal Committee. Consequently, in the absence of any possessory title in favour of the appellants or other inhabitants, it is clear that the suit property vests in the Municipal Committee, Rampura Phul.

16.1. In light of the foregoing discussion and having regard to the evidence on record, the pleadings, and the findings of the learned lower Courts, it is evident that the appellants have failed to establish any valid ground warranting interference. The instant appeal, therefore, lacks merit in its entirety and is hereby '**dismissed**'. The dismissal is affirmed with the observation that the conclusions reached by the Courts below are legally sound, factually justified, and do not call for any modification or reconsideration.

17. Upon careful scrutiny of the record, it is apparent that there exists no cogent or credible evidence to substantiate the claim that the respondent, Municipal Committee, Rampura Phul, has carried out demolition over any portion of the suit property in contravention of the orders of this Court. The stand of the respondent is that any demolition undertaken pertains solely to areas not encompassed by the injunction granted by this Court. In the absence of any material or persuasive proof demonstrating deliberate or



intentional violation of the Court’s orders, the present application in the connected proceedings (COCP) cannot be sustained. Consequently, having regard to the lack of merit and evidentiary foundation, the COCP is hereby **‘dismissed’**. The dismissal is affirmed with the observation that the respondent’s actions, as per the record, remain within the legal boundaries prescribed by the injunction, and no further directions or interventions are warranted at this stage.

18. 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 and the connected COCP, are hereby disposed of in accordance with the decision rendered herein. No further directions or orders are necessary, and such applications shall stand disposed of in consonance with the findings and conclusions reached in the principal case.

19. A photocopy of this judgment shall be placed on the connected file to ensure due compliance, facilitate reference in related matter, and serve as authoritative guidance for any future proceedings arising out of these cases.

28.10.2025
Gaurav Sorot

(**VIRINDER AGGARWAL**)
JUDGE

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