



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

(204)

RSA-4472-1999 (O&M)Date of Decision:-**19.09.2025****BALWANT SINGH (DECEASED) THROUGH LRs AND ANOTHER**

... Appellants

Versus

THE MUNICIPAL CORPORATION OF AMRITSAR AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Kanwaljit Singh, Senior Advocate with
Mr. Jashan Preet Singh Deol, Advocate
for the appellants.

Mr. Sandeep Khunger, Advocate with
Ms. Sudrishti, Advocate and
Mr. Kanwar Shehbaz Singh, Advocate
for the respondents.

VIRINDER AGGARWAL, J. (Oral)

1. The plaintiff-appellant has preferred the present Regular Second Appeal (for short, 'RSA') assailing the judgment and decree dated 08.06.1999 passed by the learned First Appellate Court, whereby the decree of the learned Sub-Judge 1st Class, Amritsar, was modified.
2. The factual backdrop, as emerges, is that the appellant/plaintiff instituted a suit for permanent injunction seeking to restrain the defendant-Corporation from interfering with his possession or dispossessing him forcibly from the suit land, fully detailed and described in the head-note of the plaint. The plaintiff asserted ownership over the suit property and



averred that the defendant-Corporation had no right, title, or interest therein. The defendant-Corporation, in its written statement, controverted the claim, pleading that the plaintiff was an unauthorized occupant and that the Corporation was legally entitled to evict him and to recover/claim damages for use and occupation of the suit land."

3. Upon consideration of the pleadings of the parties, the Court was pleased to frame the following issues for determination, so as to adjudicate the rival claims effectively:-

1. Whether the plaintiff is in possession of the suit land as owner and is entitled to injunction prayed for? OPP.
2. Whether suit is bad due to non-service of notice U/s 396 of Pb. Municipal Corporation Act? OPD.
3. Whether the jurisdiction of the civil court is exclusively barred u/s 15 of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 and also u/s 13 of the Punjab Village Common Land Regulation Act, 1961? OPD.
4. Relief

4. The learned Sub-Judge 1st Class, while leaving the question of ownership open, decreed the suit and restrained the defendant-Corporation from interfering with the possession of the plaintiff or from dispossessing him forcibly, except in due course of law. Aggrieved by the said judgment and decree, the Municipal Corporation, Amritsar preferred an appeal. The learned Additional District Judge, Amritsar, partly modified the decree and granted permanent injunction restraining the Corporation from interfering with the suit land, except in accordance with law.

5. Dissatisfied with the aforesaid judgment and decree, the appellant instituted the present appeal, which was duly admitted for hearing.



Pursuant thereto, notice was issued to the respondents, who entered appearance through learned counsel, and the record of the Courts below was requisitioned for perusal.

6. I have heard the learned counsel appearing on behalf of both parties at length. The submissions advanced have been carefully considered in the light of the pleadings, the evidence led on record, and the findings recorded by the Courts below. The record has been meticulously examined so as to appreciate the rival contentions and to ascertain whether any legal infirmity or perversity exists in the impugned judgment and decree warranting interference in the present appeal.

7. 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.

8. Learned counsel for the appellants contended that the Court ought to have adjudicated upon the question of title between the parties and that the injunction granted should have been in the nature of an absolute injunction, as the appellants-plaintiffs are the owners of the suit property and the respondent-defendants have no subsisting rights therein. During the



course of arguments, however, both parties fairly conceded that the present appeal may be disposed of by leaving the question of title to the suit property open, with liberty to either party to have the same adjudicated by taking recourse to appropriate legal proceedings. In view of the said concession, the appeal stands disposed of. The judgment and decree of the learned First Appellate Court is hereby affirmed, subject to the clarification that the parties shall remain at liberty to have their respective rights of title in the suit land determined in duly instituted proceedings before a competent forum.

9. Since the main appeal has been adjudicated and stands disposed of by this judgment, all pending miscellaneous applications, if any, which are ancillary to or dependent upon the outcome of the appeal, shall also stand disposed of accordingly and no separate orders are required to be passed thereon.

19.09.2025
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No