



In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 52 of 2021 (O&M)

Date of Decision: 01.03.2025

Rasbir Singh

... Appellant(s)

Versus

Municipal Council, Faridkot and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Inderjeet Singh Brar, Advocate
for the appellant(s).

Ms. Kavita Arora, Advocate
for respondent No.1 and 2
(Through Video Conferencing)

Anil Kshetarpal, J.

1. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in *Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157*.

2. The plaintiff No.1 assails the correctness of the concurrent findings of facts arrived at by both the Courts below while dismissing the suit for the grant of permanent injunction restraining the defendants from interfering in the peaceful possession over the Operator's Room shown in the green colour in the site plan.

3. Previously, there was a Jublee Cinema existing on the site in dispute which was purchased by the plaintiffs in the year 1988. The plaintiffs claim that there was an Operator's Room which is a part of the property purchased by them. However, they have failed to prove the same.

On analysis of the registered sale deeds executed in favour of the plaintiffs,

both the Courts below have concurrently come to conclusion that the

Operator's Room is not a part of the property which has been purchased by them. In fact, it has come on record that there was a small room which was used as Octroi Post by the Municipal Committee, Faridkot, which is no longer in use. The Trial Court has also noticed that the door of the aforesaid room does not open towards the Jublee Cinema. In fact, the door opens towards the road. Thus, both the Courts below dismissed the plaintiffs' suit.

3. The learned counsel representing the appellant submits that before the Appellate Court, an application for appointment of Local Commissioner was filed which has not been decided. On a Court question, the learned counsel representing the appellant has failed to explain as to "how the appointment of the Local Commissioner would help the appellant's case?" In this case, the appellant claims to be the purchaser of an immovable property through various sale deeds. It is for the plaintiffs to prove that the alleged room was a part of the property purchased by them. The onus of proving this fact is laid upon the plaintiffs but they have failed.

4. Keeping in view the aforesaid facts, no ground is made out to interfere with the concurrent findings of facts arrived at by both the Courts below. Hence, the present appeal is dismissed.

5. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

March 01, 2025

"DK"

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No