



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

123

RSA-3780-2023 (O&M)

Date of Decision : 27.05.2025

SWARAN SINGH

.... Appellant

VERSUS

NAGAR PANCHAYAT, KOT ISE KHAN

.... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Hardeep Singh, Advocate for the appellant.

ALKA SARIN, J. (ORAL)

CM-6309-C-2025

1. This is an application for preponing the date of hearing of the main appeal from 17.09.2025 to an early date.
2. For the reasons stated in the application, the same is allowed and the date of hearing of the main appeal is preponed.
3. With the consent of the learned counsel for the appellant, the main appeal is taken on Board today itself.

RSA-3780-2023

4. The present regular second appeal has been preferred by the defendant-appellant challenging the concurrent finding of fact returned by the Trial Court vide judgment and decree dated 17.01.2023 and by the First Appellate Court vide judgment and decree dated 30.05.2023.
5. Brief facts relevant to the present *lis* are that the plaintiff-respondent herein filed a suit for possession and mandatory injunction for

directing the defendant-appellant to hand over possession of the premises as described in the plaint. It was averred in the plaint that the defendant-appellant was in illegal possession of the suit property for the last more than three years without any right, title or interest. The defendant-appellant had illegally installed a saw-mill on the said property. The defendant-appellant herein had earlier filed a civil suit on 15.04.2016 for permanent injunction which was decreed vide judgment and decree dated 07.02.2018. It was held in the said suit that the defendant-appellant herein would not be dispossessed forcibly and without due course of law. Thereafter the present suit was filed for possession and for grant of damages on account of unauthorized use and occupation.

6. On notice the defendant-appellant appeared and filed his written statement wherein he stated that the suit was not maintainable. It was further the case set up by the defendant-appellant that the suit premises had been taken on rent from the Udyog Department @ ₹2,250 per month in March 2000 and that the saw-mill was the only source of income. In the month of September 2000 the plaintiff-respondent started claiming itself to be the owner of the premises. The defendant-appellant was alleged to have started paying rent @ ₹2,250 per month to the plaintiff-respondent.

7. Replication was filed. On the basis of the pleadings of the parties, the following issues were framed :

1. Whether the plaintiff is entitled for the relief of possession and mandatory injunction as prayed for ?

OPP

2. Whether the plaintiff is entitled for recovery of ₹1,80,000 along with interest @18% PA as prayed for ?
OPP
3. Whether the plaintiff is entitled for permanent injunction as prayed for ? OPP
4. Whether the suit of the plaintiff is not maintainable ? OPD
5. Whether the plaintiff has not come in the Court with clean hands and concealed the material facts from the Court ? OPD
6. Whether the plaintiff has no *locus standi* and cause of action to file the present suit ? OPD
7. Whether the suit of the plaintiff is not properly valued ? OPD
8. Relief.

8. The Trial Court vide judgment and decree dated 17.01.2023 decreed the suit. Aggrieved by the same an appeal was preferred by the defendant-appellant which appeal was dismissed by the First Appellate Court vide judgment and decree dated 30.05.2023. Hence, the present regular second appeal by the defendant-appellant.

9. Learned counsel for the defendant-appellant would contend that the defendant-appellant is a tenant in the premises and was initially inducted by the Udyog Department, Punjab and receipts being Ex.D-1 to Ex.D-39 were issued qua the rent. It is further the contention that after the plaintiff-

respondent started claiming itself to be the owner, the defendant-appellant started paying rent to it. It is therefore contended that in view of the receipts Ex.D-1 to Ex.D-39 the suit ought to have been dismissed.

10. Heard.

11. In the present case, admittedly, the plaintiff-respondent is the owner of the suit property. Though the stand taken by the defendant-appellant was that vide receipts Ex.D-1 to Ex.D-39 he had been paying rent to the Udyog Department, Punjab and thereafter rent had been paid to the plaintiff-respondent however, the said receipts Ex.D-1 to Ex.D-39 do not show that the amount was being paid towards the rent of the suit property. Even Ex.D-40 to Ex.D-42 do not reveal that any amount was being paid towards rent to the Udyog Department. Not an iota of evidence was placed on the record by the defendant-appellant that any amount was being paid to the plaintiff-respondent as averred in the written statement and as per the stand taken by him. Mere oral assertions were made without any supportive evidence. DW-1 in his cross-examination admitted that he had never paid any rent to the Nagar Panchayat regarding the premises in question. Both the Trial Court and the First Appellant Court have concurrently found that the defendant-appellant was in unauthorized possession of the suit property. Learned counsel has not been able to point out to any cogent or reliable evidence in support of his arguments. In the absence thereof, the judgements and decrees passed by both the fact-finding Courts cannot be faulted with. No other argument raised.

12. In view of the above, I do not find any merit in the present appeal. No question of law, much less any substantial question of law, arises for determination in the present case. The appeal being devoid of any merits is accordingly dismissed. Pending applications, if any, also stand disposed off.

27.05.2025

Aman Jain

(ALKA SARIN)

JUDGE

*NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No*