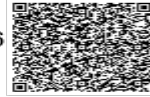
**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****130****RSA-2681-2025 (O&M)****Date of decision: 04.08.2025****Geeta Rani****...Appellant(s)****Vs.****Ram Lal and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. H.S.Chaddha, Advocate for the appellant.

NIDHI GUPTA, J.

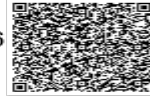
Present Second Appeal has been filed by the defendant No.1 against the concurrent judgments and decrees of the Courts below; whereby the suit filed by the plaintiff/respondent No.1 herein for possession of the suit house as described in the head note of the plaint; along with consequential relief of permanent injunction restraining defendant No.1 from alienating, creating any charge, changing the nature of the suit property, has been decreed by both the Courts below. Plaintiff is her father-in-law of the appellant/defendant no.1.

2. It is *inter alia* submitted by learned counsel for the appellant that the appellant is a helpless woman having a 10-year-old child. She has no other place to live except the suit house. The appellant has a right to reside in the suit property under the provisions of Domestic Violence Act. However, this aspect has not been considered by the learned Courts below who have passed the impugned judgments and decrees in violation



of provision of Domestic Violence Act. As such, appellant has absolute right to live in the premises of the suit property.

3. It is further submitted that in the first instance, the learned Appellate Court vide order dated 27.02.2024 (at page 84 of the paper book) had remanded the case back to the learned trial Court to decide afresh keeping in view the provisions of Domestic Violence Act with the condition that the appellant would vacate the ground floor of the suit property within 10 days from the date of order and shall implead her husband to lead evidence in the case, failing which, the appeal preferred by the appellant shall be deemed to have been dismissed. Learned counsel submits that the appellant had accordingly promptly filed an application dated 02.03.2024 (Annexure A3) under Order 1 Rule 10 CPC seeking to implead her husband; and had further asserted that she is ready and willing to vacate the ground floor in compliance of order dated 27.02.2024. Even a statement was suffered before the learned trial Court on 07.03.2024 to the effect that she had vacated ground floor of the suit property and had adhered to the directions of the learned first appellate Court as contained in judgment and decree dated 27.02.2024. It is submitted that however, the learned Civil Judge without even appointing a Local Commissioner or verifying factum of statement made by the appellant and without even considering the photographs duly placed on record by the appellant, showing the absolute possession of the plaintiff over the ground floor of the suit property, proceeded to pass impugned judgment and decree dated 11.09.2024. It is submitted that even the first

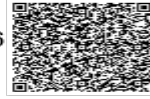


appellate Court without considering the above facts, has merely affirmed the judgment and decree dated 11.09.2024 passed by the learned Civil Judge (Junior Division) Sri Anandpur Sahib and has dismissed the appeal filed by the appellant vide judgment and decree dated 24.07.2025. It is submitted that the said impugned judgments and decrees deserve to be set aside as a very harsh opinion has been formed by the Courts below. The appellant had put forward a genuine difficulty before the learned Courts below. The learned Courts below have also ignored that appellant had 10-year-old daughter. It is accordingly prayed that the impugned judgments and decrees of the learned Courts below be set aside.

4. No other argument is raised on behalf of the appellant. I have heard learned counsel for the appellant/defendant No.1 and perused the case file in great detail.

5. Brief facts of the case are that the respondent/plaintiff, who is father-in-law of the appellant, had filed the present suit for possession and permanent injunction. The said suit was previously decreed by the learned Civil Judge vide judgment and decree dated 23.11.2021 (Annexure A-1) directing the appellant to handover the vacant possession of the suit property to the plaintiff. Defendant No.1 had filed an appeal against the said judgment and decree; in which order dated 27.02.2024 (Anexure A-2) was passed setting aside the judgment and decree dated 23.11.2021; and remanding the case back to the Civil Judge with the following directions: -

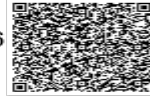
“Vide separate detailed judgment of even date; in view of the statement of the parties and while applying the ratio of the case Satish Chander Ahuja Vs. Sneha Ahuja (supra), the



judgment and decree passed by the learned lower Court is set aside subject to the condition that the possession of the ground floor shall be delivered by the appellant Geeta Rani to Ram Lal within 10 days from today as shown in Ex.P2 and in case she fails to deliver the vacant possession of the ground floor, the appeal stands dismissed and the judgment and decree shall be executable as per law. The learned lower Court is directed to take into consideration the provisions of DV Act in this case and the husband of Geeta Rani may be impleaded as a party and to afford the parties one opportunity each to lead evidence in support of their respective contentions and thereafter decide the suit as per law. Parties along with their counsel are directed to appear before the learned lower Court on 02.03.2024. The appeal is disposed of accordingly. Lower court file be sent back along with a copy of this judgment, whereas file of this court be consigned to record room."

6. After remand, the matter was fixed before the learned Civil Judge on 02.03.2024 for compliance of above said order dated 27.02.2024. On 02.03.2024, the defendant had moved application under Order 1 Rule 10 CPC (Annexure A-3) to implead her husband as party. Thereafter, defendant No.1 failed to handover the vacant possession within the prescribed period of 10 days.

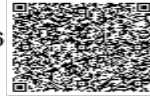
7. Accordingly, the plaintiff had filed an application dated 24.05.2024 (Annexure A-4) for decreeing the suit of the plaintiff/applicant as per the earlier judgment and decree dated 23.11.2021, as the defendant had failed to comply with the directions of the Additional District Judge, Rupnagar in Civil Appeal No.102 of 2022 vide



order/judgment and decree dated 27.02.2024. Vide impugned judgment and decree dated 11.09.2024, the learned trial Court decreed the suit of the plaintiff in terms of decree dated 23.11.2021. The appeal filed by defendant no.1 against the said judgment and decree dated 11.09.2024 has been dismissed by the Additional District Judge vide judgment and decree dated 24.07.2025. Hence, present Second Appeal by defendant No.1.

8. It has been submitted by learned counsel for the appellant that in compliance of directions dated 27.02.2024 passed by the learned Additional District Judge Rupnagar, the appellant had vacated the ground floor of the suit premises within 10 days. However, the findings of the learned trial Court in this regard are to the contrary. The relevant para 6 of the judgment dated 11.09.2024, reads as follows: -

“6. The Court has further observed that although, defendant Geeta Rani has come present within 10 days after passing of judgment in the appeal. However, the statement submitted by her does not establish that she has vacated the possession on 07.03.2024 as on the said date, she in her statement has specifically stated that her other heavy articles like bed, Almirah and Peti are still lying on the ground floor and that if plaintiff Ram Lal wishes, he can move the said articles from ground floor to first floor. Further, she had asked for some immunities on the first floor and even at the time of filing reply to application in hand, it has been simply stated that she has already vacated the possession of ground floor in compliance of the order of the Court of learned Additional District Judge, Rupnagar, however nothing has been clarified as to on which date she has vacated the ground floor or whether at the time of filing reply, she has moved all the articles from ground floor to first floor. Therefore, in these circumstances, it cannot be concluded that she has vacated the ground floor in compliance of the order dated 27.02.2024



of the Court of learned Additional District Judge, Rupangar. Accordingly, as per order/judgment dated 27.02.2024 passed by the Court of learned Additional District Judge, Rupangar in appeal, present suit stands decreed in terms of judgment and decree dated 23.11.2021 passed by learned Predecessor of this Court. Plaintiff Ram Lal is at liberty to execute the said decree as per law. File be consigned to Judicial Record Room, Sri Anandpur Sahib.”

9. From the above facts, it is shown that the defendant no.1 was still in illegal possession of the suit property, and the judgment and decree dated 27.02.2024 had not been complied with, as admittedly, her personal effects were still occupying the ground floor of the suit premises. The learned first appellate Court has also recorded in its judgment dated 24.07.2025 that the defendant No.1 had failed to deliver the possession as directed vide order dated 27.02.2024 and had not vacated the ground floor of the suit premises and possession was not delivered to the plaintiff. It was therefore held that provisions of Domestic Violence Act are not applicable to the case. More importantly, it has also been recorded that defendant No.1 is still causing hindrance in delivering the possession. Learned first appellate Court has taken note of the fact that not only has the appellant failed to deliver possession as per the judgment dated 27.02.2024 but in para 12 of her application under Order 1 Rule 10 CPC to implead her husband, the appellant has mentioned that ***“the applicant is ready to vacate the portion of share house, as the husband of the applicant and his father Ram Lal provide to the second storey portion for the residence of the applicant by providing the necessary facility and required repair of the said second storey portion of the house.”***



10. It is therefore clear that in effect, the appellant had failed to vacate suit premises as directed and had not complied with directions of learned Additional District Judge. Further, no Second Appeal was filed by the appellant against the judgment dated 27.02.2024. Hence, the same is binding upon the appellant. Even in the first appeal, the appellant had challenged only decree dated 11.09.2024 and nothing was stated about decree dated 23.11.2021. Even the Executing Court in it's order dated 11.07.2025 has recorded that police protection was sought by the decree holder as the judgment debtor/appellant was not cooperating to deliver the possession in a peaceful manner.

11. In view of the above, no ground is made out to interfere in the concurrent judgments and decrees of the learned Courts below.

12. The present Regular Second Appeal is hereby **dismissed**.

13. Pending applications, if any, stand disposed of.

04.08.2025
Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No