



RSA-1148-1987 (O&M)

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

(101)

RSA-1148-1987 (O&M)

Reserved on: 30.04.2026

Pronounced on: 15.05.2026

Uploaded on: 15.05.2026

Puran Singh (Since Deceased) through LRs And Others

...Appellants

Versus

Gram Panchayat, Babiya, Substituted by Ambala Municipal Corporation,
Ambala and Now Substituted by Municipal Council, Ambala Cantt.

...Respondent

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Santosh Sharma, Advocate
for the appellant.

Mr. Surender Pannu, Advocate
for the Municipal Council, Ambala.

VIRINDER AGGARWAL, J.

1. The present Regular Second Appeal has been preferred by the defendant-appellant assailing the judgment and decree dated 10.02.1987 passed by the learned Additional District Judge, Ambala, whereby the appeal filed by the plaintiff-Gram Panchayat, Babiya was partly allowed and the judgment and decree dated 16.08.1985 passed by the learned Sub Judge IIIrd Class, Ambala City dismissing the suit was modified. The appellant-defendant seeks restoration of the trial Court judgment.

BACKGROUND FACTS

2. The dispute pertains to land comprised in Khasra No. 228, Khewat/Khatauni No. 651/792, as per Jamabandi for the year 1975-76, situated within the abadi of village Babial, Tehsil Ambala. The plaintiff-Gram Panchayat instituted a suit for permanent injunction restraining the defendant from



interfering in its alleged possession and from alienating any part of the suit land. The case of the plaintiff was that the land was recorded as Shamlat Deh and vested in the Gram Panchayat under the provisions of the Punjab Village Common Lands (Regulation) Act, 1961. It was pleaded that proceedings under Section 7 of the Act culminated in delivery of possession to the Panchayat on 06.08.1968, as reflected in Rojnamcha report no.593 (Ex. P1). Though the defendant had challenged the ejectment proceedings before the High Court, resulting in quashing of the orders, it was asserted that actual possession was never restored to him and continued with the Panchayat. The appellant-defendant contested the suit, denying the ownership and possession of the Panchayat. It was pleaded that he and his predecessors had been in continuous possession of the land for decades and had become owners. Reliance was placed upon documentary evidence Ex. D1 to Ex. D8, including earlier judgments of the High Court (Ex. D7 and Ex. D8), and sale deeds executed in favour of third parties.

3. Upon a meticulous examination of the pleadings and the competing claims of the parties, the learned Trial Court proceeded to frame the following issues for determination:-

- 1. Whether the plaintiff is owner and in possession of the suit land and the suit land vests in plaintiff? OPD*
- 2. Whether the matter has already been decided by the Hon'ble Punjab and Haryana High Court and as such is res judicata between the parties? OPP*
- 3. Whether the suit of the plaintiff in the present form is not maintainable? OPD*



4. *Whether the plaint has not been properly verified and signed by an authorised person, if so, its effect? OPD*
5. *Whether the plaintiff has no locus standi to file the present suit? OPD*
6. *Whether the defendant is in possession of the suit property for the last more than 100 years as owner and the possession is open and hostile, if so, its effect? OPD*
7. *Whether the suit filed by the plaintiff is false and motivated, if so, its effect? OPD*
8. *Relief.*

4. Both parties were afforded full and adequate opportunity to adduce evidence in support of their respective claims and defences. The learned trial Court, upon a comprehensive evaluation of oral and documentary evidence, returned findings against the plaintiff. It was held that the plaintiff failed to prove possession over the suit land and, on the contrary, the evidence on record including Ex. P2 (Jamabandi 1975-76) and defence documents established that the defendant was in possession. The Court further held that the suit for injunction was not maintainable in the absence of proof of possession and also in view of the statutory bar under Section 13 of the Punjab Village Common Lands Act. Consequently, the suit was dismissed vide judgment dated 16.08.1985 by the learned Trial Court.

5. Aggrieved by the dismissal of the suit, the plaintiff-respondent preferred an appeal before the learned Additional District Judge, Ambala. The First Appellate Court, vide judgment dated 10.02.1987, partly allowed the appeal, modified the decree, and granted limited relief in favour of the plaintiff-

respondent. The Court held that though the entire land could not be treated as



vested for purposes of injunction, certain portions required protection. Aggrieved by the said judgment, the present Regular Second Appeal has been filed by the defendant.

CONTENTIONS

6. Learned counsel for the appellant contends that the First Appellate Court gravely erred in interfering with the well-reasoned findings of the trial Court. It is argued that the plaintiff failed to establish possession, which is sine qua non for grant of injunction. It is further contended that the documentary evidence Ex. D1 to Ex. D8 conclusively proves possession of the appellant and that the land had been dealt with by way of sale deeds in favour of third parties. Reliance is also placed upon earlier judgments of the High Court (Ex. D7 and Ex. D8), wherein possession of the defendant was protected.

7. Per contra, learned counsel for the respondent-Gram Panchayat submits that the land stands declared as Shamlat Deh by this Court vide judgment dated 23.01.1962 (Ex. P4) and thus vests in the Panchayat. It is argued that ownership having been settled, possession of vacant land follows title. It is further contended that the subsequent judgments (Ex. D7 and Ex. D8) only protected possession to a limited extent, i.e., the portion under constructed houses, and did not divest the Panchayat of ownership over the remaining land.

OBSERVATIONS AND FINDINGS

8. I have heard the learned counsels for the parties and perused the record of the case.

9. 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 Punjab Courts Act, 1918 and not under Section 100 of 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.

10. At the outset, it requires to be noticed that the present litigation is not an isolated dispute but is in continuation of prolonged litigation regarding the suit property spanning several decades. The controversy essentially revolves around the nature of land comprised in Khasra No. 228 and the extent to which the possession of various persons including Puran Singh and his assignees deserves protection.

11. The first round of litigation culminated in judgment dated 23.01.1962 (Ex. P4) passed by this Court in *RFA-122-1995 titled Jagdev Singh and Other versus Surat Singh and Others*, wherein it was categorically held that the land in dispute was Shamlat Deh and vested in the Gram Panchayat and there is no exclusion of suit land from shamlat Deh by way of Provisions of Section 2(g) (vi) of Punjab Village Lands and Regulation Act, 1961. The said judgment attained finality regarding the status and ownership of the land. Thus, qua title, the issue stood settled in favour of the Gram Panchayat and against Puran Singh and others. The effect of the said judgment was that the land forming part of the shamlat deh vested in the Panchayat under the provisions of the Punjab Village Common Lands (Regulation) Act. Thereafter, in the second round of litigation, proceedings under Section 7 of the Punjab Village Common Lands (Regulation) Act were initiated by the Gram Panchayat seeking ejectment of Puran Singh and others from the suit land. Though the Collector ordered ejectment and possession was allegedly delivered to the Panchayat vide Rapat Roznamcha



dated 16.08.1968 (Ex. P1), the matter again reached this Court in ***Civil Writ Petition no.2471 of 1968 titled Jagdev Singh etc. Versus Commissioner Ambala Division, Ambala and others***. In the said proceedings, this Court vide judgment dated 14.01.1974 (Ex. D8) held that the land underneath the constructed houses of the writ petitioners could not be treated as shamlat deh in view of the exclusion clause contained in Section 2(g)(vii) of the Act. Consequently, the ejectment proceedings under Section 7 were set aside to that limited extent. The said judgment was thereafter affirmed in ***Letters Patent Appeal No.145 of 1945 titled as Gram Panchayat Babiyal versus Commissioner Ambala Division, Ambala and others*** vide judgment dated 30.07.1977 (Ex. D7).

12. However, a careful reading of the aforesaid judgments clearly shows that this Court had not divested the Gram Panchayat of ownership over the entire land. The protection was confined only to the portion proved to be under houses/construction and in possession of the occupants at the relevant time. Thus, the subsequent judgments did not overrule or nullify the earlier declaration of title rendered vide judgment dated 23.01.1962 (Ex. P4), but merely protected possession over the constructed portion from summary ejectment proceedings under Section 7 of the Act. The learned trial Court while dismissing the suit primarily proceeded on the premise that the defendant and other persons were in possession of the property and that the suit for injunction simpliciter was not maintainable. The trial Court also noticed the existence of various assignees/purchasers claiming through Puran Singh and observed that portions of land had already been alienated and constructions had been raised thereupon. However, the learned First Appellate Court undertook a more comprehensive examination of the effect of the earlier High Court judgments



and rightly distinguished between the land under actual protected possession and the remaining vacant land vesting in the Panchayat. It is significant to notice that the learned First Appellate Court did not return any specific adverse finding against the assignees/purchasers claiming through Puran Singh, nor was any decree for dispossession passed against them. Rather, while granting limited injunction in favour of the Panchayat, the learned First Appellate Court consciously confined the relief only to the extent of land which could legally be protected in favour of the Panchayat in view of the earlier judgments of the this Court.

13. The operative effect of the judgment passed by the learned First Appellate Court was that the possession of Puran Singh over the protected constructed portion continued to remain safeguarded in terms of the earlier High Court judgments, whereas qua the remaining portions stated to be in possession of the assignees/purchasers, no decree for injunction was passed. Instead, liberty was specifically granted to the Municipal Committee/competent authority to initiate proceedings in accordance with law regarding such possession. It is also pertinent to notice that after the death of Puran Singh, the present litigation came to be contested by the assignees/purchasers claiming through him on the basis of their possession and sale transactions. Thus, the learned First Appellate Court itself recognized that the question of their dispossession could only be ordered through due process of law and not by any forcible or unilateral action.

14. It is further clarified that no operative direction for dispossession was passed regarding the land which came into possession of the assignees/purchasers through various sale deeds executed by Puran Singh during his lifetime vide sale deeds dated 17.08.1977 (Mark A), 12.05.1979



(Ex.DY) and dated 10.01.1978 (Mark B and Ex. BX). Rather, their existing possession stood protected against forcible dispossession under the impugned decree till such time as the competent authority or Panchayat takes recourse to appropriate legal proceedings in accordance with law. The impugned decree merely preserved the right of the Panchayat/Municipal Committee to seek appropriate relief against such occupants in accordance with law. Thus, while the ownership rights of the Panchayat over shamlat land stood recognized, the existing possession of the assignees remained subject to lawful adjudication by the competent authority and they can avail the same if they succeed in proving that they had purchased only exempted portion of suit land as has been exempted vide judgement Ex.D7 in the hands of original defendant-Puran Singh their predecessor-in-interest.

15. The record further reveals from the site plan Ex.D1 and the documentary evidence produced by the parties that only a defined portion measuring approximately 45×23.5 feet was under occupation of the defendant-appellant-Puran in the form of house/jhuggi. The remaining land was either vacant or subsequently alienated through transactions which had already been occupied by different assignees/purchasers through constructions or settled possession. In these circumstances, the learned First Appellate Court rightly refrained from passing any sweeping decree regarding the entire land and instead adopted a balanced approach consistent with the earlier judgments of this Court. Therefore, the effect of the impugned judgment by First appellate is that while the ownership rights claimed by the Panchayat over shamlat land were recognized, the possession of the assignees deriving rights through Puran Singh was also safeguarded against any forcible or extra-legal interference, exactly in continuation of the protection which had earlier been extended by the



High Court in favour of Puran Singh in the previous rounds of litigation. Accordingly, this Court finds no illegality or perversity in the approach adopted by the learned First Appellate Court while moulding the relief. The distinction drawn between the protected possession and the remaining land is fully borne out from the earlier judgments and the evidence available on record.

16. In view of the aforesaid discussion, this Court finds no illegality or perversity in the judgment and decree dated 10.02.1987 passed by the learned Additional District Judge, Ambala warranting interference in the present Regular Second Appeal. The learned First Appellate Court rightly distinguished between the protected constructed portion and the remaining shamlat land and appropriately left the question regarding possession of the assignees/purchasers to be determined by the competent authority in accordance with law.

17. Accordingly, the present appeal, being devoid of merit, is hereby **dismissed** and the judgment and decree dated 10.02.1987 passed by the learned Additional District Judge, Ambala are affirmed.

18. Since the main appeals stands decided, pending application(s), if any, also stand disposed of.

15.05.2026
Saurav Pathania

(VIRINDER AGGARWAL)
JUDGE

(i) *Whether speaking/reasoned* : Yes/No
(ii) *Whether reportable* : Yes/No