



RSA-28-2026 (O&M)

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

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**RSA-28-2026 (O&M)
Date of decision: 15.01.2026**

NARESH KUMAR JAIN NOW DECEASED THROUGH HIS LRS

....Appellant

Versus

SATISH KUMAR JAIN

...Respondent

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Rahul Jain, Advocate
for LR's of the appellant.

YASHVIR SINGH RATHOR. J.(Oral)

1. The present appeal is directed against the judgment and decree dated 27.11.2024 passed by the Court of Additional District Judge, Ambala, vide which the appeal filed by the plaintiff/appellant against the judgment and decree dated 23.01.2018 passed by the learned trial Court has been dismissed vide which suit for permanent injunction filed by plaintiff was dismissed and the appeal filed by defendant/respondent has been allowed and the counter-claim filed by defendant/respondent for possession of the suit property has been decreed.

2. I have heard learned counsel for the appellant and have gone through

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the record.

3. Undisputed facts are that plaintiff and defendant are real brothers. One RSA No.892 of 1985 titled **Chander Parkash Jain Vs. Jyoti Parshad** was pending before the High Court in which Jyoti Parshad who was the predecessor of the parties to the present lis was a respondent. A compromise was effected in the said Regular Second Appeal before the High Court, vide compromise Ex. D2 and the judgment Ex. D3 was passed by the High Court and it was settled that present defendant/respondent will become owner of the suit property on payment of Rs.18 lakhs in pursuance of the said compromise. Present plaintiff also submitted his affidavit Ex. D1 before the High Court in support of the compromise. Thereafter, a sale deed was executed in favour of the defendant on 19.12.2016. Plaintiff who was the elder brother of defendant was allowed to reside in a portion of the building/suit property as a licensee under him for one year at the time of said compromise. Thereafter, he did not honour the compromise and refused to vacate the premises. Rather, he instituted the suit in hand for permanent injunction, restraining the defendant from interfering in his possession and claimed that the suit property had fallen in his share in an oral family settlement. This fact was denied by the defendant, who also instituted a counter-claim seeking possession of the suit property.

4. The trial Court dismissed the suit as well as counter-claim and by observing that the dispute regarding the suit property has already been settled between the parties in the RSA decided by the High Court and nothing remains with the defendant/counter-claimant, except the remedy to execute the judgment and decree passed by the High Court in terms of Order 21 CPC and the counter-

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claim was also dismissed. For ready reference, the relevant portion of the decree passed in RSA No.892 of 1985, which has been reproduced in the judgment of the trial Court is again being reproduced as under:-

“It is ordered that in terms of the compromise dated 09.03.2014 having arrived between the parties and their affidavits the appeal is disposed of. The parties shall be bound to perform their part of the compromise and shall remain bound by its terms and conditions. The parties shall be free to approach authorities concerned for registration of a sale deed, in accordance with law.”

5. A perusal of the aforesaid relief clause of the decree-sheet shows that the said appeal was disposed of and it was ordered that parties shall be bound to perform their part of the compromise and shall remain bound by its terms and conditions. No decree was passed in favour of present defendant for eviction of the present plaintiff, who was allowed to reside in the said premises for a period of one year as a licensee which could be executed. However, after he refused to vacate the same, the cause of action to get him ejected arose in favour of the defendant, whose counter-claim thus has rightly been decreed by the learned Appellate Court. The pleadings of the parties and evidence on file have thus been appreciated by the Appellate Court in the correct perspective and finding of the trial Court that defendant can seek possession of the suit property by filing execution under Order 21 CPC has rightly been set aside being erroneous. The judgment passed by the learned Appellate Court thus does not suffer from any manifest error, illegality or infirmity and no interference in the same is called for and appeal in hand deserves to be dismissed and it is ordered accordingly. No order as to costs.



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6. At this stage, learned counsel for the appellant submitted that appellant is a widow, aged 78 years and is suffering from various ailments and she may be granted some time to vacate the premises. If it is so, appellant shall furnish an affidavit before the Executing Court/trial Court within two weeks, undertaking to vacate the suit property on expiry of a period of three months from today and in case any such affidavit is furnished, she will not be dispossessed up to 14.04.2026. However, she shall clear all the mesne profits as assessed by the Appellate Court till she vacate the suit property.

15.01.2026
amandeep

(YASHVIR SINGH RATHOR)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No