

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****RSA-1808-1995****The State of Punjab and others****...Appellants**

Versus

Yoginder Sharma (Now deceased) Through LRs ...Respondent

Reserved on: 04.02.2026**Pronounced on: 06.02.2026****Pronounced fully/operative part: Fully****CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA**

Argued by: Mr. Puru Jarewal, DAG, Punjab for the appellants.

Mr. Aayush Gupta, Advocate and
Mr. Abhishek Chaudhary, Advocate
for the respondent(s).

DEEPAK GUPTA, J. (ORAL)

The defendants are before this Court by way of the present Regular Second Appeal, assailing the concurrent judgments and decrees passed by the Courts below. The suit for permanent injunction instituted by the plaintiff Yoginder Sharma was decreed by the learned Trial Court vide judgment dated 16.01.1990, and the appeal preferred by the defendants was dismissed by the learned First Appellate Court on 03.02.1995, thereby affirming the findings of the Trial Court.

2. For the sake of convenience, the parties shall be referred to as per their status before the Trial Court.

3.1 The case set up by the plaintiff is that he has been running a country-made liquor business under the name and style of M/s Yoginder Sharma Onkar Rai & Company since the year 1981. He was a successful bidder for a country liquor vend (L-14 category) on 19.03.1984 in respect of Old Sabzi Mandi, Khanna, and was granted Licence No.9/84-85. The auction for country



liquor vends preceded the auction for L-2 vends. The plaintiff duly deposited all dues pertaining to his licence for the year 1984–85.

3.2 Subsequently, the plaintiff received a memorandum dated 30.05.1985 from the Assistant Excise and Taxation Commissioner, Ludhiana, alleging that the plaintiff had made a bid for L-2 vends Group No.2 (Malerkotla Road and Anaj Mandi, Khanna) at an annual licence fee of ₹24,20,000/-, failed to deposit the requisite amount, and thereby caused a loss of ₹2,83,333/- to the Excise Department. The plaintiff was called upon to deposit the said amount failing which recovery was threatened as arrears of land revenue.

3.3 The plaintiff challenged the said memorandum as null, illegal and void, primarily on the ground that he had never participated in the auction for L-2 vends, and was in any case statutorily barred from doing so, having already obtained an L-14 licence. Consequently, he sought a decree of permanent injunction restraining the defendants from effecting recovery on the basis of the impugned memorandum.

4. In the written statement, the defendants pleaded that the plaintiff had in fact made a bid for L-2 vends on behalf of M/s Rajender Sharma & Co., Khanna, and that the name of Rajender Sharma appeared in the knockdown slip. It was further alleged that the plaintiff failed to deposit the mandatory 10% amount at the fall of the hammer, resulting in re-auction and consequential loss to the Department. Certain preliminary objections including maintainability and want of notice under Section 80 CPC were also raised.

5. Upon framing of issues and appraisal of oral and documentary evidence, the learned Trial Court decreed the suit, holding that the defendants had miserably failed to establish that the plaintiff ever participated in the auction for L-2 vends, or had any authority to bid on behalf of M/s Rajender Sharma & Co. The appeal preferred by the defendants was dismissed by the First Appellate Court, which upheld the findings of fact.



concurrent findings by contending that the plaintiff had indeed made the bid for L-2 vends on behalf of Rajender Sharma & Co., and therefore, was liable to compensate the loss caused to the Excise Department.

7. This Court has heard learned counsel for the parties and perused the record carefully. No merit is found in the contention raised.

8. The learned First Appellate Court, while re-appreciating the entire evidence, has recorded detailed and well-reasoned findings, which deserve to be noticed. It has been categorically found that under Rule 36(6) read with Rule 14 of the Punjab Liquor Licence Rules, 1956, a person holding an L-14 or L-14A licence is debarred from bidding for an L-2 licence. It stands admitted on record that the plaintiff had already obtained an L-14 licence prior to the auction of L-2 vends. There is no evidence of any exemption or special permission granted to the plaintiff to participate in the L-2 auction.

9. It has further been held that the defendants failed to produce any evidence to show that the plaintiff had any pecuniary interest, business connection, or valid power of attorney authorising him to bid on behalf of M/s Rajender Sharma & Co., as mandated by Rule 36(7) of the Punjab Liquor Licence Rules. In the absence of a duly executed power of attorney, the plaintiff could not legally bid for another person or firm.

10. The knockdown slip Ex.D-1, which is a document emanating from the custody of the defendants themselves, records the name of Rajender Sharma as the successful bidder. Significantly, the name or signature of the plaintiff does not figure therein. There is also no endorsement indicating that the bid was made through or by the plaintiff. This document, by itself, demolishes the case set up by the defendants.

11. The First Appellate Court has also noticed serious procedural lapses on the part of the Excise Department, including failure to prepare mandatory documents such as bid sheets and Form M-14, as required under Rule 36(14) and Rule 36(22) of the Punjab Liquor Licence Rules. The Departmental witnesses admitted that these documents were mandatory, yet



failed to explain their non-preparation. Such omissions lend further credence to the plaintiff's case that he never participated in the auction.

12. Additional contradictions were noticed between the locations of vends mentioned in the impugned memorandum and those reflected in the knockdown slip, suggesting an attempt by the authorities to cover up their own lapses. It was also found that no notice or show cause was ever issued to the plaintiff prior to re-auction or issuance of the impugned memorandum, in violation of basic principles of fairness.

13. The cumulative effect of the evidence led the Courts below to an unequivocal conclusion that the plaintiff never joined the auction, was statutorily incompetent to do so, and was sought to be fastened with liability merely to cover up the defaults of the Department. These findings are based on a proper appreciation of evidence and correct application of statutory provisions.

14. It is well settled that in a second appeal under Section 100 CPC, interference is permissible only when the case involves a substantial question of law. Concurrent findings of fact cannot be disturbed unless shown to be perverse, based on misreading of evidence, or contrary to law. The appellants have failed to demonstrate any such perversity or illegality.

15. The present appeal essentially seeks a re-appreciation of evidence, which is impermissible in second appellate jurisdiction. No substantial question of law arises for consideration.

16. Consequently, finding no merit, the present Regular Second Appeal is dismissed.

06.02.2026

Yogesh

(DEEPAK GUPTA)

JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No