



RSA No:- 1924-1995 (O&M)

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

(102)

RSA No:- 1924-1995 (O&M)

Reserved on: 18.03.2026

Pronounced on: 30.03.2026

Uploaded on: 06.04.2026

Avtar Singh (since deceased) through LRs.

...Appellant

Versus

Balwinder Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by: Mr. Amit Jain, Senior Advocate with
Ms. Nikita Sharma, Advocate
for the appellant.

Mr. Sandeep K. Sharma, Advocate
for Mr. Sandeep Vermani, Advocate
for the respondent nos. 2 to 4.

VIRINDER AGGARWAL, J.

1. The present Regular Second Appeal has been preferred by the appellant—plaintiff, being aggrieved by the judgment and decree dated 11.08.1995 passed by the learned Additional district Judge, Jalandhar whereby the appeal filed by the appellant was dismissed and the judgment and decree dated 02.05.1988 passed by the learned Sub Judge 1st Class, Phillaur dismissing the suit of the plaintiff was affirmed.

Background Facts

2. The appellant-plaintiff, Avtar Singh, instituted the present suit for declaration to the effect that the order dated 30.05.1986 passed by the Assistant Collector Ist Grade, Phillaur in case No.5/SDO/1986 titled Balwinder Singh and others vs Avtar Singh is without jurisdiction, null and void in the eyes of law, and further declaration that no relationship of landlord and tenant exists or ever existed between the parties to the suit in respect of the suit land situated in



village Rurka Kalan, Tehsil Phillaur, as shown in the fard jamabandi for the year 1980-81(fully detailed in the plaint). It was pleaded that the suit land is ancestral joint Hindu family property of which the plaintiff is in continuous possession being son of Piara Singh, the previous owner. The plaintiff claimed continuous possession not as tenant but as owner/coparcenar. It was specifically asserted that there existed no rent note, lease deed, rent agreement and no rent was ever paid by the plaintiff to the defendants. On this premise, it was contended that no relationship of landlord and tenant existed and the revenue court had no jurisdiction to pass the ejectment order.

3. Upon notice, the defendants appeared and contested the suit by filing written statement wherein they asserted that the plaintiff was in possession of the suit land as a tenant under them and that the Assistant Collector Ist Grade had rightly passed the order of ejectment. It was further pleaded that the defendants were owners of the suit land. Preliminary objections were also taken to the effect that the suit as framed is not maintainable and that the Civil Court has no jurisdiction to try the suit in view of Section 25 of the Punjab Security of Land Tenures Act, 1953.

4. On the basis of the pleadings of the parties, the learned Trial Court framed the following issues:

(1) Whether the orders dated 30.05.1986 passed by the A.C. Ist Grade, Phillaur are null and void and do not bind the rights of the plaintiff? OPP

(2) Whether the suit as framed is not maintainable? OPD

(3) Whether the suit is within time? OPP

(4) Whether the plaintiff is estopped by his act and conduct from filing this suit? OPD



(5) Whether the Civil Court has got no jurisdiction to try this suit? OPD

(6) Relief.

5. The learned Trial Court, upon appreciation of the oral as well as documentary evidence brought on record, returned a categorical finding against the plaintiff. It was observed that the plaintiff, who claimed being in possession of the suit land on the basis of its alleged ancestral character, had examined only himself as PW-1 and had not led any other evidence. Even the copies of jamabandi and khasra girdawri attached with the plaint were not exhibited and remained marked only as X/1 and X/2. The Court rightly noted that this was probably because those documents were against the plaintiff. The defendants produced on record a copy of the jamabandi for the year 1985-86 (Ex. D-4), wherein the plaintiff was recorded as “Ghair Marusi” under the defendants. The learned Trial Court held that the entries in the revenue record carry a presumption of truth and, in the absence of any cogent evidence to rebut the same, such entries are liable to be acted upon. The contention that the entry actually reads “Ghair Marusi Bashara Malik Bawaja Pissar” was never proved by producing any document at the trial stage by the plaintiff and remained a mere allegation. The Court further held that tenancy can be created orally and that non-payment of rent by itself does not negate the existence of the relationship of landlord and tenant. Earlier revenue orders (Ex.D-2, Ex. D-3 and Ex. D-5) holding the plaintiff to be a tenant lent further support to the case of the defendants.

6. On the basis of the aforesaid findings, the learned Trial Court concluded that the relationship of landlord and tenant existed between the parties and,



consequently, in view of Section 25 of the Punjab Security of Land Tenures Act, 1953, the jurisdiction of the Civil Court was barred. Accordingly, the suit of the plaintiff was dismissed on 02.05.1988.

7. Aggrieved by the judgment and decree of the Learned Trial Court, the plaintiff preferred an appeal, which came to be dismissed by the Learned First Appellate Court vide judgment dated 11.08.1995. The learned First Appellate Court, after appreciating the entire evidence on record, concurred with the findings recorded by the Learned Trial Court. It was held that the entry in the jamabandi (Ex. D-4) showing the plaintiff as “Ghair Marusi” clearly indicated that he was in possession as a tenant under the defendants and defendants were shown as owners of the suit land. The argument that such an entry was ambiguous or insufficient to establish tenancy was rejected. The Appellate Court further held that the plaintiff had failed to produce any evidence to rebut the presumption attached to the revenue record and that, in the absence of such rebuttal, the entry must be given due weight. It was also held that once the relationship of landlord and tenant stood established, the bar of jurisdiction contained in Section 25 of the Punjab Security of Land Tenures Act would operate and the Civil Court would have no authority to adjudicate upon the matter. The findings of the Trial Court were accordingly affirmed and the appeal was dismissed.

CONTENTIONS

8. Learned counsel for the appellant-plaintiff contended that the Courts below have misread the revenue entry and have wrongly applied the bar under Section 25 of the Act. It has been argued that in the absence of any lease deed, rent note or payment of rent, no relationship of landlord and tenant could be inferred. It has further been submitted that the Civil Court had jurisdiction to



examine the question, particularly when the very existence of the relationship of landlord and tenant was in dispute.

9. Per contra, learned counsel for the respondents has supported the judgments passed by the Courts below and submitted that the findings recorded are based on proper appreciation of evidence. It has been contended that the revenue entry clearly establishes the status of the plaintiff as a tenant and that the plaintiff having failed to rebut the presumption attached to such entry, the Courts below were justified in dismissing the suit. It is further submitted that no interference is called for in second appeal against concurrent findings of fact.

OBSERVATIONS AND FINDINGS

10. I have heard learned counsel for the parties and considered their submissions in conjunction with the pleadings, evidence, and the findings recorded by the courts below. The entire record has been carefully examined to determine whether the impugned judgments and decrees suffer from any legal infirmity or error justifying interference by this Court.

11. 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 the Punjab Courts Act, 1918 and not under Section 100 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.

12. The burden of proving that parties are not having relationship of



landlord and tenant existed lay squarely upon the appellant-plaintiff. However, the plaintiff failed to discharge the burden. He examined only himself as PW-1 and did not lead any other evidence whatsoever. Even the copies of jamabandi and khasra girdawri which he had attached with the plaint were not exhibited and remained marked only as X/1 and X/2. The learned Trial Court rightly observed that this was probably because those documents were against the plaintiff. In a suit for declaration denying tenancy, the plaintiff cannot succeed merely on his own interested statement when the opposite party has produced unimpeachable documentary evidence. The learned Trial Court, therefore, correctly held that the plaintiff had failed to discharge the burden of proof cast upon him.

13. The other issue which arises for consideration is with regard to the interpretation and effect of the jamabandi entry for the year 1985-86 (Ex.D-4), wherein the plaintiff has been recorded in possession as “Ghair Marusi” under the defendants and defendants were recorded as owners. It is well settled that entries in the revenue record carry a presumption of truth and correctness. Such presumption, though rebuttable, continues to operate unless displaced by cogent and convincing evidence. In the present case, the plaintiff has not been able to produce any material to rebut the said presumption. The contention that the said entry actually reads “Ghair Marusi Bashara Malik Bawaja Pissar” was raised but it remained unsubstantiated. It was never proved by exhibiting any document at the trial stage. The only exhibited jamabandi is Ex.D-4 produced by the defendants. The plaintiff deliberately did not exhibit his own documents attached with the plaint (marked only as X/1 and X/2). In such circumstances, the presumption attached to the exhibited revenue record remains unrebutted.

14. The argument that in the absence of a written lease or payment of rent,



the relationship of landlord and tenant cannot be inferred, has been rightly rejected by the Courts below. It has been concurrently found that tenancy may arise even without a written instrument and that non-payment of rent does not, by itself, negate the existence of such relationship. It is also borne out from the record that the revenue authorities had, in earlier proceedings (Ex.D-2, Ex.D-3, Ex.D-5) held the plaintiff to be a tenant and had passed an order of ejectment against him. These findings lend support to the entries in the revenue record and reinforce the conclusion that the plaintiff was in possession as a tenant. Once it is held that the relationship of landlord and tenant exists between the parties, the bar of jurisdiction contained in Section 25 of the Punjab Security of Land Tenures Act, 1953 comes into operation.

15. Section 25 of the Punjab Security of Land Tenures Act, 1953 reads as under:

“25. Exclusion of courts and authorities.-Except in accordance with the provisions of this Act, the validity of any proceedings or order taken or made under this Act shall not be called in question in any court or before any other authority.”

A conjoint reading of the above provision with the findings recorded herein leaves no manner of doubt that the jurisdiction of the Civil Court was expressly barred once the relationship of landlord and tenant stood established between the parties. In such circumstances, both the courts below have rightly applied this law and have held that the suit was not maintainable before the civil court.

16. A careful consideration of the judgments of the Courts below shows that the findings recorded therein are based on proper appreciation of the evidence on record. No material evidence has been ignored, nor has any misreading of evidence been demonstrated. The conclusions arrived at are reasonable



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and do not suffer from perversity or illegality. In view of the foregoing discussion, it is evident that the appellant has failed to make out any case for interference. The findings recorded by the Courts below are concurrent, well-reasoned and based on evidence, and no ground is made out to disturb the same.

17. Accordingly, the present Regular Second Appeal is dismissed and the judgments and decrees passed by the Courts below are affirmed.

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

(VIRINDER AGGARWAL)
JUDGE

30.03.2026
Saurav Pathania

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