

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**RSA-1519-2026 (O&M)
Date of decision: 06.05.2026

Smt. Darshana

...Appellant

Versus

Balbir

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: Mr. Virender Kumar, Advocate for the appellant.

DEEPAK GUPTA, J. (ORAL)

The present Regular Second Appeal has been preferred by the appellant-plaintiff assailing the judgment and decree dated 27.11.2025 passed by learned Additional District Judge, Jhajjar, whereby the appeal filed by the appellant-plaintiff against the judgment and decree dated 14.09.2023 passed by learned Civil Judge (Junior Division), Bahadurgarh, was dismissed and the findings of the learned trial Court were affirmed.

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

3. The plaintiff instituted a suit for possession and permanent injunction alleging that she had purchased a plot measuring 58 square yards situated within the Abadi Deh of village Barkhtabad, Tehsil Bahadurgarh, District Jhajjar vide registered sale deed No.837 dated 07.05.2013 executed by Vedwati. According to the plaintiff, after purchase, she came in possession of the said property and had been using the same for tethering cattle and storage of firewood. It was pleaded that in December, 2020, the defendant illegally encroached upon a portion of the suit property and raised a wall thereupon without the knowledge or consent of the plaintiff. Upon objection being raised, the defendant allegedly threatened the



plaintiff and refused to vacate the encroached area. Consequently, the suit seeking possession of the encroached portion and permanent injunction was filed.

4. Upon notice, the defendant contested the suit and denied the allegations of encroachment. It was pleaded that the defendant himself was owner in possession of a plot measuring 115 square yards situated within Lal Dora of village Barkhtabad by virtue of agreements dated 20.10.2020 and 03.12.2020 executed in his favour. The defendant asserted that the disputed portion formed part of his own property and not that of the plaintiff. It was further pleaded that the plaintiff had intentionally shown incorrect dimensions and boundaries in order to create a false claim.

5. Necessary issues were framed. Evidence was produced by the parties. The plaintiff appeared as PW-1 and reiterated the averments made in the plaint. She deposed that she had purchased the suit property measuring 58 square yards through registered sale deed dated 07.05.2013 and had remained in possession thereof. She alleged that the defendant had illegally encroached upon a portion of the plot and raised construction thereon in December, 2020. In support of her case, she relied upon the site plan Ex.P1 and certified copy of sale deed Ex.P2. During cross-examination, however, the plaintiff admitted that no demarcation of the plot had ever been conducted. She further admitted that the site plan had been prepared in the Court Complex on the basis of instructions supplied by her husband and not after actual spot inspection. She also conceded that her plot was lying vacant and no boundary wall or fencing had been raised by her. The plaintiff further admitted that the defendant had already raised four walls around his plot about two years earlier.

6. The draftsman, who prepared the site plan Ex.P1, was not



examined by the plaintiff. No Local Commissioner's report was produced. Likewise, no independent witness from the locality, such as neighbour, Panch, Sarpanch or Numberdar, was examined to corroborate the allegation of encroachment.

7. On the other hand, the defendant appeared and asserted that he was owner in possession of the disputed property by virtue of agreements executed in his favour and denied any encroachment upon the plaintiff's land.

8. Both the courts after analysing the evidence on record have concurrently held that plaintiff failed to prove encroachment and dismissed the suit.

9. Assailing the findings, learned counsel for the appellant-plaintiff contended that the registered sale deed Ex.P2 conclusively established ownership of the plaintiff over the suit property. It was argued that the defendant had failed to produce any cogent evidence disproving the plaintiff's title or possession. According to the appellant, both the Courts below erred in discarding the site plan and failed to properly appreciate the oral and documentary evidence available on record. It was submitted that the findings recorded by the Courts below were contrary to the evidence and liable to be set aside.

10. There is no merit in the submissions. Although, the plaintiff successfully proved ownership of the property described in sale deed Ex.P2, mere proof of title was insufficient to succeed in a suit based on alleged encroachment. The plaintiff was additionally required to establish the exact identity of the encroached portion and unlawful possession of the defendant over the same.

11. The principal basis of the plaintiff's case was the site plan

Ex.P1. However, the draftsman, who prepared the said site plan was never examined and, therefore, the document remained unproved in accordance with law.

12. Besides, the courts below noticed material discrepancies between the boundaries reflected in the sale deed and those shown in the site plan. The plaintiff’s own admissions during cross-examination revealed that the site plan had not been prepared after spot inspection and that no demarcation had ever been conducted. In absence of any demarcation report, Local Commissioner’s report or independent corroborative evidence, the allegation of encroachment remained unsubstantiated.

13. Accordingly, it is concluded that the concurrent findings recorded by both the Courts below are based upon proper appreciation of evidence and do not suffer from perversity or illegality. Since no substantial question of law arose for consideration, the Regular Second Appeal is dismissed.

14. Pending miscellaneous application(s), if any, shall also stand disposed of.

06.05.2026

Yogesh

(DEEPAK GUPTA)
JUDGE

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