



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

RSA-1244-1997 (O&M)

Reserved on :- 04.05.2026

Date of Pronouncement:-13.05.2026

Uploaded on:-14.05.2026

Shiso (Since Deceased) through Her LRs and Another

... Appellant(s)

Versus

Madan Lal and Others

... Respondents

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CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Mr. Bhanu Partap, Advocate
for the appellant(s).

Mr. Tejinderbir Singh, Advocate
for the respondent No.1.

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VIRINDER AGGARWAL, J.

1. The appellant(s)-plaintiff(s) herein moves this Regular Second Appeal (hereinafter to be referred as 'RSA' for short) to impugn the legality of the judgment and decree dated 27.03.1997, pronounced by the learned Additional District Judge, Karnal. By way of the assailed judgment, the learned First Appellate Court set aside the decree dated 21.03.1996, effectively reversing the well-considered findings of the learned Trial Court which had originally enured to the benefit of the appellant.

1.1. The present appeal is preferred on the grounds that the determination rendered by the learned Lower Appellate Court is ostensibly

flawed and unsustainable in law. The appellant contends that the reversal of the Trial Court's judgment lacks the requisite legal propriety, as the learned First Appellate Court failed to appreciate the evidentiary weight and settled legal principles correctly applied by the Court of first instance. Consequently, this appeal seeks the intervention of this Court to restore the original decree and rectify the judicial error inherent in the impugned judgment.

2. Briefly stated, the appellant-plaintiff instituted a suit for permanent injunction asserting that he belongs to the Chamar caste and is the owner in possession of the suit property forming part of Khasra No.35 Min., measuring 6 Kanals 13 Marlas, situated within the revenue estate of Village Mangalpur. It was pleaded that the plaintiff had been in continuous possession of the suit property for the last 35 years and had raised construction comprising rooms and a *bara*, as specifically delineated in the site plan appended with the plaint. The grievance of the plaintiff was that the defendants were attempting to dispossess him forcibly and illegally from the suit property.

2.1. The defendants contested the suit by filing a written statement denying the ownership and possession of the plaintiff over the suit property and asserting that the plaintiff had no right, title, or interest therein. Defendant No.1 further set up a registered sale deed allegedly executed in his favour by the true owner of the property.

3. Upon a comprehensive and meticulous examination of the pleadings on record, coupled with the rival submissions advanced by the

parties, the learned Trial Court deemed it appropriate to crystallize the controversies arising for adjudication and accordingly framed the following issues for determination:-

1. *Whether the plaintiff is owner in possession of the suit property?*
OPP.
2. *Whether the suit is liable to be stayed under section 10 CPC?*
OPP.
3. *Whether the plaintiff has suppressed the material facts? OPP.*
4. *Relief.*

4. Upon conclusion of the trial and appreciation of the oral as well as documentary evidence adduced by the parties, the learned Trial Court decreed the suit and granted a decree of permanent injunction restraining the defendants from interfering with the peaceful possession of the plaintiff over the suit property.

5. Aggrieved by the aforesaid judgment and decree, the respondent-defendants preferred an appeal before the learned First Appellate Court. The learned First Appellate Court, upon reappraisal of the material available on record, allowed the appeal and consequently set aside the judgment and decree passed by the learned Trial Court. Dissatisfied with the reversal of the decree in his favour, the appellant-plaintiff has instituted the present Regular Second Appeal, which came to be admitted for hearing vide order dated 23.01.1998. Notice of the appeal was duly served upon the respondents. Although the respondents initially failed to appear, they subsequently entered appearance and joined the proceedings upon filing an appropriate application before this Court.

6. I have heard learned counsel for the parties at considerable length and have bestowed anxious and thoughtful consideration upon their respective submissions, while carefully examining the pleadings of the parties, the evidentiary material brought on record, and the findings concurrently returned by the learned Courts below.

7. The learned Trial Court originally entered findings in favor of the appellant-plaintiff, predicated upon the testimonies of Zile Singh (PW-1), Ram Niwas (PW-2), Chattar Pal (PW-5), and Ranbir Singh, Advocate (PW-6). However, upon a fastidious reappraisal of the evidence, the learned First Appellate Court correctly impugned and disbelieved the credibility of these witnesses.

7.1. The plaintiff's own testimony (PW-1) was rendered inherently unreliable during cross-examination due to his manifest inability to describe the suit property with any modicum of precision. He demonstrated a total lack of localized knowledge, failing to identify whether the property fell within the *Lal Dora* (within Municipal Limit) of the village or possessed a specific Khasra number. Furthermore, material contradictions emerged regarding the site's topography; while the plaintiff deposed that a road exists to the North, the site plan (Ex. PW3/A) identifies the residence of Lal Chand. Similarly, his deposition regarding a *Rajbaha* (watercourse) to the South directly contradicted the site plan's depiction of Kunjpura Road.

7.2. The supporting witnesses fared no better under judicial scrutiny. PW-2 (Ram Niwas) was unable to identify the disputed property

in cross-examination, exposing him as a coached witness. PW-5 (Chatarpal) failed to provide essential boundary details, and PW-6 (Ranbir Singh, Local Commissioner) admitted to a fundamental procedural lapse by failing to serve notice upon the defendants prior to his spot inspection. Consequently, the First Appellate Court's decision to discard these testimonies was supported by cogent and convincing reasons, and no perversity can be found in such findings.

7.3. Regarding the documentary evidence, the revenue records describe the suit property as *Abadi Deh*. The Jamabandi for the year 1982-83 (Ex. P1) records the ownership and possession as *Abadi Aftada*, with the remarks column noting *Abadi Aftada Chamaran*. Crucially, the appellant's name is conspicuously absent from the possession column. While a statutory presumption of truth attaches to Jamabandi entries under the relevant Revenue Act, the Khasra Girdawaris also fail to reflect the appellant's possession. Moreover, the demarcation report (Ex. PW4/A) confirms the absence of any construction by the plaintiff. The mere fact that the appellant(s) belongs to the community mentioned in the remarks column does not vest him with possessory title. Therefore, the learned First Appellate Court rightly concluded that the appellant(s) failed to discharge the onus of proving possession, necessitating the dismissal of the appeal. Consequently the appeal being devoid of merit is hereby **dismissed**.

8. Consequent upon the final adjudication of the substantive merits of this case, all pending miscellaneous applications, if any, arising out of or collateral to these proceedings, stand disposed of by necessary

implication. In light of the definitive conclusions reached herein, the determination of such applications has rendered them infructuous and academic, and no separate judicial orders are required in this regard.

13.05.2026
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No