

2026:PHHC:015933



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-1568-1996 (O&M)

AMAR CHAND (NOW DECEASED)
THROUGH HIS LRS

... APPELLANT

Vs.

JALANDHAR IMPROVEMENT TRUST,
MODEL TOWN ROAD, JALANDHAR

... RESPONDENT

Reserved on: 21.01.2026
Pronounced on: 04.02.2026
Pronounced Full/partially: Fully

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Amit Jain, Sr. Advocate with
Ms. Varun Parkash, Advocate for appellant No.1 (I to v, vii)
Ms. Kavita Arora, Advocate for the respondent.

DEEPAK GUPTA, J.

Background : The plaintiff of the case (*now represented through his legal representatives*) has approached this Court by way of the present Regular Second Appeal, assailing the concurrent judgments rendered by the Courts below. The suit for mandatory injunction filed by the plaintiff against the defendant–Jalandhar Improvement Trust (*now respondent and hereinafter referred to as "JIT"*) was dismissed by the learned trial Court vide judgment dated 14.02.1994. The appeal preferred thereagainst was also dismissed by the learned First Appellate Court vide judgment dated 15.04.1996, thereby affirming the findings of the trial Court.

2. To avoid confusion, the parties shall be referred to as per their status before the trial Court. The trial Court record was requisitioned and has been perused.

3.1 ***Plaintiff's Case*** : The case set up by the plaintiff was that he was the owner of land measuring 14 kanal 19 marla, being ½ share out of the total land measuring 29 kanal 9 marla, as detailed in the headnote of the plaint, situated near Vasant Bihar, Model Town, Jalandhar (within municipal limits). The said land was purchased by the plaintiff jointly with his brother Darshan Lal in equal shares vide sale deed dated 13.06.1968.

3.2 It was not in dispute that the defendant–JIT framed and executed a development scheme known as “Green Model Town, Jalandhar” (also referred to as 143.74 Acres Development Scheme), under which land belonging to various landowners, including that of the plaintiff, was acquired for development of a residential colony. Consequent upon such acquisition, the plaintiff claimed to have become a “local displaced person” within the meaning of the Punjab Town Improvement Act and the Rules framed thereunder.

3.3 According to the plaintiff, under the applicable statutory Rules, a local displaced person was entitled to allotment of a residential plot measuring one kanal in the development scheme. His specific grievance was that although his co-sharer and brother Darshan Lal, whose land was acquired under the same scheme, had been allotted a plot measuring one kanal under the category of local displaced person, the plaintiff was denied similar treatment. Alleging discrimination, the plaintiff submitted a request letter dated 01.06.1990 and also served a legal notice under Section 98 of the Punjab Town Improvement Act. As no relief was granted by JIT, the plaintiff instituted the present suit seeking a decree of mandatory injunction directing the defendant to allot him a residential plot measuring one kanal in the said development scheme in lieu of his acquired land.

4.1 ***Defendant's Stand*** : The defendant–JIT contested the suit by raising preliminary objections, the principal objection being that the suit was barred by limitation. It was pleaded that the suit ought to have been filed within six months from the date of acquisition and taking over of possession. Since possession of the acquired land had admittedly been taken on

26.05.1980 and the suit was instituted in October 1991, it was contended that the same was hopelessly time-barred.

4.2 On merits, JIT admitted the acquisition of the land jointly owned by the plaintiff and Darshan Lal under the 143.74 Acres Development Scheme. However, the claim for allotment of a plot was resisted on the ground that the land was jointly held, that the respective shares of the vendees were not specifically demarcated in the sale deed, and that one plot had already been allotted to the co-sharer, Darshan Lal. On these premises, dismissal of the suit was sought.

5. ***Trial Court Findings*** : Necessary issues were framed. Upon consideration of the pleadings, evidence, both oral and documentary, and the submissions advanced by the parties, the learned trial Court held that since one plot had already been allotted to the co-sharer, the plaintiff was not entitled to any additional allotment under the development scheme. The trial Court further held that the suit was barred by limitation, having been filed long after the expiry of the prescribed period. On these findings on the material issues, the suit was dismissed vide judgment dated 14.02.1994.

6.1 ***Appellate Court's Findings*** : Aggrieved thereby, the plaintiff preferred an appeal. The learned First Appellate Court disagreed with the reasoning of the trial Court insofar as the entitlement of the plaintiff was concerned. It was held that mere allotment of a plot to the co-sharer could not disentitle the plaintiff from his independent statutory right. Relying upon Rule 2(a) and Rule 7(ii) of the Utilization of Land and Allotment of Plots by Improvement Trust Rules, 1975 framed under the Punjab Town Improvement Act, the Appellate Court recorded a categorical finding that the plaintiff was entitled to allotment of a plot measuring 500 square yards as a local displaced person. To that extent, the finding of the trial Court was reversed.

6.2 However, the learned First Appellate Court concurred with the trial Court on the issue of limitation and upheld the finding that the suit was

hopelessly time-barred. Consequently, despite reversing the finding on entitlement, the appeal was dismissed vide judgment dated 15.04.1996.

7. It is against these concurrent dismissals of the suit, primarily on the ground of limitation that the plaintiff has approached this Court by way of the present Regular Second Appeal.

8.1 ***Contentions of the Appellant*** : Learned senior counsel appearing for the appellant has assailed the concurrent findings of the Courts below on the issue of limitation. It is contended that both the Courts below have returned erroneous findings in holding the suit to be barred by limitation, despite the peculiar facts and circumstances of the case.

8.2 It is further urged that the defendant–respondent Trust has neither preferred any appeal nor filed cross-objections against the categorical finding recorded by the learned First Appellate Court holding the plaintiff-appellant to be entitled to allotment of a plot under the applicable statutory Rules. Consequently, the said finding has attained finality.

8.3 ***Application for additional evidence*** : Along with the present appeal, the appellant moved an application bearing **CM-2520-C-1996 under Order XLI Rule 27 CPC**, seeking permission to place on record certain documents by way of additional evidence, namely Annexures A, B and C. It was pleaded that the appellant and his brother-co-sharer Darshan Lal had simultaneously submitted two separate applications dated 01.06.1981 to the respondent-Trust, seeking allotment of plots under the development scheme, as their land had been acquired for the purpose of development. Pursuant to the application submitted by Darshan Lal, the respondent-Trust allotted him plot No.1235 measuring one kanal under the category of “local displaced person” vide allotment letter dated 07.02.1990 (Annexure C).

8.4 It was specifically contended that the aforesaid documents could not be produced earlier despite due diligence, as they were not traceable. It was only in the last week of May 1996, when the appellant contacted Darshan Lal, that copies of the applications dated 01.06.1981 were

found in the personal record of Darshan Lal. It was urged that these documents are material and have a direct bearing on the issue of limitation and discrimination, and are necessary for effective adjudication of the controversy involved in the appeal.

8.5 Despite service of notice, no reply to the said application was filed by the respondent-Trust.

8.6 During the course of arguments, learned counsel for the respondent fairly stated that no reply was proposed to be filed and that the documents sought to be produced as Annexures A, B and C could be taken into consideration by this Court.

8.7 Drawing attention to Annexures A and B, learned senior counsel for the appellant submitted that both applications were moved on the same date, i.e. 01.06.1981, by the appellant and his co-sharer Darshan Lal, seeking allotment of plots under the 143.56 Acres Development Scheme on the ground that their jointly owned land had been acquired. However, while Darshan Lal was allotted a plot measuring one kanal on 07.02.1990, the respondent-Trust discriminated against the appellant by not extending similar benefit to him, despite his identical status.

8.8 It was further contended that the appellant became aware of the allotment in favour of Darshan Lal only thereafter, whereupon he issued a notice dated 01.06.1990 to the respondent-Trust, requesting allotment of a plot in his favour. As the said request did not yield any response, the appellant served a legal notice dated 14.06.1991. When even the legal notice failed to evoke any response, the appellant instituted the present suit on 09.10.1991. It was thus argued that the relief claimed being one of mandatory injunction for enforcement of a statutory right, the suit was well within limitation.

8.9 On these premises, learned senior counsel for the appellant prayed for setting aside the finding of the First Appellate Court on the issue

of limitation and for decreeing the suit by issuing a mandatory injunction in favour of the appellant.

9.1 ***Contentions of the Respondent*** : *Per contra*, learned counsel appearing for the respondent-Trust refuted the aforesaid submissions and contended that there is no scope for interference in the concurrent findings recorded by the Courts below holding the suit to be barred by limitation.

9.2 Though the receipt of the applications dated 01.06.1981 (Annexures A and B) submitted by the appellant and Darshan Lal by the JIT on the same date, is not disputed by learned counsel for the respondent, but it is contended that since the exact share of the appellant in the acquired land was not specified in the sale deed, he was not entitled to allotment of a plot under the Scheme.

9.3 In the alternative, learned counsel for the respondent submitted that the State Government has constituted a committee under the chairmanship of the concerned Deputy Commissioner/District Collector in each district for settlement of claims relating to local displaced persons/alternate plots of Improvement Trusts. It was urged that the claim of the appellant could be referred to such committee for consideration and appropriate decision.

10. ***Reply by the Appellant*** The aforesaid submission was vehemently opposed by learned Senior Advocate appearing for the appellant, who argued that the appellant has already been litigating since the year 1991 and has been denied relief despite a finding of entitlement in his favour by the First Appellate Court. It was contended that after the lapse of more than three decades, it would be wholly unjust to relegate the appellant to yet another round of administrative proceedings, which may not only consume further time but may also result in demand of prevailing market price for allotment of the plot. Learned Senior Advocate, therefore, reiterated his prayer for acceptance of the appeal and for issuance of a mandatory injunction as originally prayed for by the plaintiff-appellant.

11. **Substantial Questions of Law** : After hearing learned counsel for the parties and upon consideration of the findings recorded by the Courts below and the rival submissions, this Court finds that the following substantial questions of law arise for determination in the present Regular Second Appeal:

- i. Whether the Courts below erred in law in holding the suit for mandatory injunction filed by the plaintiff seeking enforcement of his statutory right as a “local displaced person” to be barred by limitation, by incorrectly computing the period of limitation from the date of acquisition of land instead of from the date of denial of such statutory entitlement?
- ii. Whether, on a correct interpretation of Rules 2(a) and 7(ii) of the Utilization of Land and Allotment of Plots by Improvement Trust Rules, 1975, a co-owner whose land has been acquired by the Improvement Trust is independently entitled to allotment of a residential plot as a “local displaced person”, notwithstanding allotment of a plot to another co-owner under the same scheme?

Court Analysis & Findings :

12. **Entitlement of Plaintiff** - The entitlement of the plaintiff to allotment of a plot as a local displaced person flows from the statutory framework governing the respondent-Trust. The Utilization of Land and Allotment of Plots by Improvement Trust Rules, 1975, framed under Section 73 of the Punjab Town Improvement Act, 1922, define a “local displaced person” under Rule 2 (a) to mean as under a person who is the owner of a property acquired by the Trust for execution of a scheme and who has been such owner for a continuous period of two years immediately preceding the first publication of the scheme under Section 36 of the Punjab Town Improvement Act, 1922.

13. In the present case, the factual position is not in dispute. The land measuring 29 kanal 09 marla was purchased by the plaintiff along with his brother Darshan Lal in equal shares vide registered sale deed dated 13.06.1968 (Ex.P1). The said land was subsequently acquired by the

defendant-Trust for execution of the development scheme popularly known as Green Model Town, Jalandhar. The acquisition and the status of the plaintiff as co-owner of the acquired land stand admitted. Consequently, the plaintiff squarely falls within the definition of a “local displaced person” under Rule 2(a).

14. The contention raised by the defendant-Trust that the area of the plaintiff’s share was not specified in the acquired land is wholly misconceived and devoid of merit. The sale deed itself clearly records that the plaintiff and Darshan Lal were co-owners in equal shares. Once the Trust treated Darshan Lal as a local displaced person on the basis of the very same sale deed, it was impermissible in law to deny identical treatment to the plaintiff. Such a stand is *ex facie* arbitrary and unsustainable.

15. Rule 7(ii) of the 1975 Rules further provides that a local displaced person shall be entitled to allotment of a plot up to the size of 500 square yards on freehold basis, at reserve price, where the area of land owned by him and acquired by the Trust exceeds 500 square yards.

16. The First Appellate Court, after a detailed and correct appreciation of Rules 2(a) and 7(ii), recorded a categorical finding that the expressions “owner” and “owned” occurring in the Rules are wide enough to include a co-owner and that each co-owner is independently entitled to allotment in proportion to his share.

17. The First Appellate Court rightly observed that the allotment of a plot to one co-owner cannot, by itself, extinguish or satisfy the statutory claim of the other co-owner unless there is acquiescence or consent, which is conspicuously absent in the present case. The interpretation placed by the trial Court that allotment to one co-sharer exhausts the entitlement of all co-owners was correctly held to be contrary to the spirit and object of Rules 2(a) and 7(ii). This Court finds no reason to differ from the said findings of the appellate court, which are firmly rooted in statutory interpretation and admitted facts.

18. Thus, the plaintiff was clearly entitled to allotment of a plot measuring 500 square yards, i.e. one kanal, in the same scheme and at the same rate at which his brother Darshan Lal, who was identically situated, was allotted a plot in the year 1990.

19. **Bar of Limitation :** Coming to the issue of limitation, which alone weighed with the First Appellate Court in non-suiting the plaintiff, the record reveals that two separate applications for allotment were moved by the plaintiff Amar Chand and his brother Darshan Lal in June, 1981. These applications were received by the defendant-Trust on the same date, i.e. 01.06.1981, as is evident from *Annexures A and B*. While Darshan Lal was allotted plot No.1235 measuring one kanal on 07.02.1990 under the category of local displaced person (*Annexure C*), no such allotment was made in favour of the plaintiff.

20. It was only after learning about the allotment in favour of his co-sharer that the plaintiff addressed a request letter dated 01.06.1990 to the defendant-Trust seeking similar allotment. When this elicited no response, he served a legal notice dated 14.06.1991 (Ex.P2). The receipt of these notices has not been denied by the defendant-Trust. Eventually, the plaintiff instituted the present suit on 09.10.1991 seeking a decree of mandatory injunction.

21. In these circumstances, the cause of action cannot be said to have arisen on the date of acquisition or taking over of possession of the land. The grievance of the plaintiff arose only when the Trust, despite allotting a plot to his co-sharer, failed to extend the same benefit to him. The denial of a statutory entitlement constituted a continuing wrong, and the suit filed shortly thereafter cannot be held to be barred by limitation. The approach adopted by the Courts below in reckoning limitation from the date of acquisition reflects a fundamental misappreciation of the nature of the right asserted and the relief claimed.

22. Accordingly, the findings recorded by the trial Court and affirmed by the First Appellate Court on the issue of limitation are unsustainable in law and are hereby reversed. The suit is held to be well within limitation.

23. It also deserves mention that while issuing notice of motion on 20.08.1996 in the present appeal, this Court had directed the respondent-Trust to keep one plot measuring one kanal reserved, subject to the outcome of the appeal. In view thereof, the respondent-Trust cannot be permitted to raise a plea of non-availability of a suitable plot in the scheme.

24. **Conclusion & Direction :** In view of the entire discussion as above, the present appeal is accepted. The judgments and decrees passed by both the Courts below are set aside. The suit filed by the plaintiff-appellant is decreed. A decree of mandatory injunction is issued directing the defendant–Jalandhar Improvement Trust to allot a plot of land measuring one kanal to the plaintiff under the category of “local displaced person” in the development scheme known as 143.74 Acres Development Scheme, also referred to as Green Model Town, Jalandhar, in lieu of the acquired land measuring 14 kanal 19 marla, as detailed in the headnote of the plaint.

25. It is further directed that the plot shall be allotted in the same locality and at the same rate as mentioned in the allotment letter dated 07.02.1990 (*Annexure C*) issued in favour of Darshan Lal, who was similarly situated. There was absolutely no justification for the defendant-Trust to discriminate against the plaintiff, who was in no manner at fault for the non-allotment of the plot. Decree sheet be prepared accordingly.

04.02.2026

Vivek

(DEEPAK GUPTA)
JUDGE

Whether speaking/reasoned?
Whether reportable?

Yes
No

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