



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

**RSA-2717-1996 (O&M)
Reserved on :- 02.02.2026
Date of Pronouncement:-09.02.2026
Uploaded on:-12.02.2026**

Pathankot Improvement Trust, Pathankot through its Chairman

... Appellant

Versus

Shri Vinod Kumar and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Ms. Kavita Arora, Advocate with
Ms. Sumayya Khatoon, Advocate
for the appellant.

Mr. Manish Dadwal, Advocate
for respondents No.2 to 4.

VIRINDER AGGARWAL, J.

1. The present Regular Second Appeal (hereinafter referred to as “the RSA”) has been preferred by the appellant–defendant laying challenge to the judgment and decree dated 19.01.1996 passed by the learned Additional District Judge, Gurdaspur, whereby the judgment and decree rendered by the learned Trial Court was affirmed in toto. The

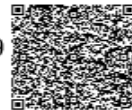


learned Trial Court, vide judgment and decree dated 23.12.1992 passed by the learned Sub Judge Ist Class, Pathankot, had decreed the suit instituted by the respondent–plaintiff seeking a decree of declaration. The appellant, being aggrieved by the concurrent findings of fact and law recorded by both the Courts below, has approached this Court asserting that the impugned judgments and decrees suffer from material illegality, misappreciation of evidence, and errors apparent on the face of the record, rendering them legally unsustainable and warranting interference in the exercise of second appellate jurisdiction.

2. The facts, as emerging from the pleadings of the parties and necessary for the adjudication of the present controversy, may be briefly stated as follows:-

The plaintiff, Vinod Kumar, instituted the present suit seeking a declaration that he is the lawful owner in possession of one kanal of land comprised in Khasra No. 1551/531, as fully described in the heading of the plaint (hereinafter referred to as “the property in dispute”), and that he is entitled to raise construction thereon. Consequential relief by way of a mandatory injunction was also sought, directing the defendants to sanction the building plan submitted by the plaintiff.

It is the pleaded case of the plaintiff that he purchased the property in dispute from Mohan Lal, son of Shri Mulkha Raj, by means of a registered sale deed dated 06.02.1990, and that mutation in respect thereof was duly sanctioned in his favour. The land in question was originally owned by the Central Government through the Rehabilitation Department and was subsequently transferred to the State Government. Mohan Lal had lawfully acquired the said land from the State



Government through an open auction conducted by the Tehsildar Sales on 28.07.1989, and thereafter sold the same to the plaintiff.

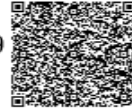
After acquiring ownership, the plaintiff submitted a site plan along with a proposed building plan to defendants No. 1 to 3 for sanction. However, the proposed plan was not sanctioned, and the plaintiff was informed vide letter No. 780 dated 13.06.1990 that the Municipality had declined sanction on the ground that defendants No. 4 to 6 had refused to issue a no-dues certificate.

Defendant No. 6 took the stand that the property in dispute was owned by Improvement Trust, Pathankot, and that the Tehsildar Sales had unauthorisedly sold the same in open auction. The plaintiff specifically pleaded that the said claim of defendants No. 4 to 6 was false, baseless, and without any legal justification, as the Improvement Trust had neither ownership nor any right, title, or interest in the property in dispute.

It was further pleaded that defendant No. 3 had applied to the Tehsildar Sales for the issuance of a sale certificate in respect of the property in dispute, but the said application was rejected. The controversy regarding the alleged claim of the Improvement Trust was finally resolved by an order passed by the Deputy Secretary (Rehabilitation) Department, Government of Punjab, which was duly communicated to the Tehsildar Sales, Pathankot.

The Improvement Trust, Pathankot, also challenged the mutation sanctioned in favour of Mohan Lal by filing an appeal; however, the said appeal was dismissed vide order dated 08.06.1990 passed by Shri Swami Ram Bharti, Collector, Gurdaspur.

It was further pleaded that the defendants had no authority or justification to withhold the sanction of the proposed building plan submitted by the plaintiff. The refusal by defendant No. 4 to issue a no-



dues certificate and the consequent refusal by defendant No. 1 to grant sanction were alleged to be illegal, arbitrary, and contrary to the provisions of law, applicable rules, and municipal bye-laws.

Despite repeated requests made by the plaintiff to the defendants to acknowledge his lawful claim and to sanction the proposed plan, no action was taken. Consequently, the plaintiff served statutory notice dated 25.07.1990 upon defendants No. 1 to 3 and notice dated 11.08.1990 upon defendants No. 4 to 6 in accordance with the relevant statutory provisions. The present suit was instituted after the expiry of the mandatory notice period.

3. Upon service of summons, the respondents appeared through learned counsel and contested the claim by filing their written statement, wherein they raised the following pleas:-

In their written statement, defendants No. 1 to 3 contested the suit and denied the claim of the plaintiff. It was pleaded that the Improvement Trust is the owner of the property in dispute. It was admitted that the plaintiff had submitted a building plan to the answering defendants; however, the same could not be sanctioned owing to the refusal of defendants No. 4 to 6 to issue the requisite no-dues certificate. It was further asserted that the plaintiff is not the owner of the property in dispute and, therefore, has no enforceable right to seek sanction of the building plan. On these grounds, dismissal of the suit was prayed for.

Defendants No. 4 to 6, in their separate written statement, raised preliminary objections to the maintainability of the suit. It was pleaded that the plaintiff has no locus standi to institute the present suit. Defendant No. 4 specifically asserted ownership of the property in dispute and contended that the suit is not maintainable in its present form. It was further pleaded that the property in dispute, along with

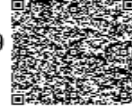


other adjoining land, stood transferred to defendant No. 4, and that the answering defendants, being lawful owners, were fully entitled to deal with the property in dispute in accordance with law. The refusal by defendant No. 4 to issue a no-dues certificate was stated to be legal, justified, and proper. On these averments, dismissal of the suit was sought.

4. Upon an exhaustive and judicious consideration of the pleadings of the parties and the rival submissions advanced before it, the learned Trial Court, with a view to precisely delineate the matters in controversy and to ensure a structured, effective, and legally coherent adjudication, proceeded to frame the following issues for determination:-

1. *Whether the plaintiff is owner in possession of one kanal of land forming part of khasra no.1551/531 situated in Anandpur Tehsil Pathankot fully described in the head note of the plaint? OPP.*
2. *Whether the plaintiff is entitled to the declaration prayed for? OPP.*
3. *Whether the plaintiff is entitled to the consequential relief of mandatory injunction prayed for? OPP.*
4. *Whether the plaintiff has no locus standi to file this suit? OPD.*
5. *Whether the suit is not maintainable in present form? OPD.*
6. *Relief.*

5. Upon the framing of issues, both parties were afforded full and adequate opportunity to lead their respective evidence. After a comprehensive appreciation of the pleadings, oral and documentary evidence, and the material placed on record, the learned Trial Court decreed the suit in favour of the respondent–plaintiff. The appeal preferred by the appellant–defendant was dismissed by the learned First Appellate



Court. Aggrieved by the concurrent judgments and decrees, the appellants have approached this Court by instituting the present RSA.

6. The appellants have assailed the concurrent judgments and decrees passed by the learned Courts below by filing the instant appeal. Upon preliminary scrutiny, the appeal was found to merit consideration and was accordingly admitted to regular hearing. Notice was issued to the respondents, who entered appearance through learned counsel and contested the appeal. Thereafter, the appeal was heard at length on the submissions advanced by learned counsel appearing for the respective parties.

6.1. In order to facilitate a complete, informed, and effective adjudication of the questions arising in the appeal, the entire record of the Courts below was requisitioned and has been made available on the Digital Management System ('DMS' for short), for perusal and consideration.

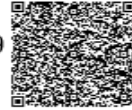
7. I have heard learned counsel for the appellants at considerable length and have bestowed anxious and thoughtful consideration upon the submissions advanced. The pleadings of the parties, the oral and documentary evidence on record, and the concurrent findings returned by the learned Courts below have been examined with due care and circumspection. The entire record has been subjected to a meticulous and comprehensive scrutiny to determine *'whether the impugned concurrent judgments and decrees suffer from any jurisdictional error, manifest perversity, misappreciation of evidence, or any other legal infirmity warranting interference in the exercise of appellate jurisdiction'?*



8. 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.

9. It is most respectfully submitted on behalf of the Appellant that the eviction proceedings constituting the very foundation of the present controversy have long since attained finality, having been conclusively affirmed by the Hon'ble Supreme Court in ***Civil Appeal No. 8724 of 1994, decided on 25.04.2001, titled Mulakh Raj v. The Commissioner & Others***. Inasmuch as the predecessor-in-interest of the respondent-plaintiff failed to obtain any relief in the said proceedings, the Appellant submits that the judgment and decree rendered by the learned First Appellate Court is vitiated by patent illegality, is unsustainable in law, and warrant interference by this Court. It is, therefore, most humbly prayed that the present appeal be allowed and the impugned judgment and decree be set aside in the interest of justice.

10. A careful and dispassionate perusal of the order passed by the Hon'ble Court in ***Mulakh Raj v. The Commissioner & Others*** case (supra)



unequivocally demonstrates that the claim advanced by Mulakh Raj in respect of the suit land stood conclusively rejected up to the Hon'ble Supreme Court, and that the right, title, and interest of the appellant—Improvement Trust in the said land came to be duly recognized and affirmed by the Hon'ble Apex Court.

10.1. A further perusal of Civil Writ Petition No. 6706 of 1988, instituted by Mulakh Raj, reveals that he had approached the Court asserting himself to be a tenant under the Custodian in respect of evacuee property bearing Khasra Nos. 1551/531, 1552/531, 623/1569/1449/624/1570/1449/624, and 625, situated within the revenue estate of Anandpur, Tehsil Pathankot, District Gurdaspur. The said claim was categorically examined and ultimately rejected.

10.2. The title now claimed by the respondent—plaintiff is sought to be traced through Mohan Lal, son of Mulakh Raj, on the basis of sale deed Ex. PA-1/A. The alleged title of Mohan Lal is further sought to be supported by Ex. P-13, being a copy of the jamabandi, wherein, by way of a footnote, sanction of mutation of the suit property in favour of the plaintiff is reflected. However, a plain reading of the jamabandi indicates that Mulakh Raj is recorded therein merely as a tenant, while the suit land itself is described as unallotted urban land, with a mutation having been sanctioned in favour of Mohan Lal.

10.3. Significantly, there is no material on record to establish that Mohan Lal derived any title through Mulakh Raj, his father. The jamabandi does not clarify or demonstrate that Mulakh Raj, in the earlier writ proceedings, claimed any right beyond that of a tenant. On the contrary,



Mohan Lal asserts that he acquired title to the suit property by way of purchase in a public auction, followed by sanction of mutation of sale in his favour. In such circumstances, the findings rendered by the Hon'ble Apex Court in relation to Mulakh Raj cannot, by themselves, be held to apply ipso facto to Mohan Lal, nor consequently to the respondent–plaintiff. Findings are binding only to parties of the writ and plaintiff of this suit is in no way connected with writ petitioner.

10.4. The respondent–plaintiff, rests his claim of title independently on the basis of the sale deed pertaining to the suit property, and not merely on the rejected claim of tenancy earlier set up by Mulakh Raj.

11. Ex.P14 is the judgment rendered by the learned Civil Court in a suit instituted by Mohan Lal against the Improvement Trust, Pathankot. The present respondent–plaintiff claims title through Mohan Lal and, therefore, the findings recorded therein are binding upon both the appellant and the respondent–plaintiff. The said suit pertained to a declaration of title in favour of Mohan Lal, wherein the issues framed related to his ownership and possession of the suit land on the basis of the sale deed dated 04.09.1989, as well as the competing claim of ownership and possession asserted by the Improvement Trust, Pathankot. The learned Civil Court, vide judgment Ex.P14, decided all issues in favour of Mohan Lal and against the defendants therein, and granted injunction in favour of the predecessor-in-interest of the respondent–plaintiff.

11.1. In view of the binding effect of judgment Ex.P14, the findings recorded by the learned First Appellate Court cannot be termed perverse or



founded on any misreading of evidence and warrant no interference. Consequently, the appeal, being devoid of merit, is hereby **dismissed**.

12. Since the principal appeal has been duly adjudicated and stands finally disposed of on merits, all ancillary, interlocutory, or pending application(s), if any, reflected on the record shall, by necessary implication, also stand disposed of. No separate or further orders are required to be passed in that regard.

09.02.2026
Gaurav Sorot

(**VIRINDER AGGARWAL**)
JUDGE

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