

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****RSA-3801-1997 (O&M)****Gram Panchayat Dhani Khanbahadur****. . . . Appellant****Vs.****Krishan Kumar and Others****. . . . Respondents*************Reserved on: 15.01.2026****Pronounced on: 22.01.2026****Pronounced fully/operative part: Fully*************CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA**

Argued by:- Mr. Abhilaksh Grover, Advocate and
Ms. Nandini Gupta, Advocate for
the appellant.

Mr. Ashish Aggarwal, Senior Advocate with
Ms. Pooja Sareen, Advocate for the respondents.

***********DEEPAK GUPTA, J.**

The present second appeal has been preferred by defendant–Gram Panchayat against the judgment & decree dated 21.11.1997 passed by the learned First Appellate Court of Additional District Judge, Hisar, whereby the appeal filed by the plaintiffs (*respondents herein*) was allowed, reversing the judgment of the trial Court of senior Sub-Judge, Hisar dated 08.11.1994, and the suit for declaration and consequential relief of permanent injunction was decreed.

2. In order to avoid confusion, parties are being referred to as per their status before the trial Court. The record of the trial Court, as available on the DMS, has been perused.

3.1 According to the plaintiffs, their father, late Shri Kulwant Rai, had been a tenant in cultivating possession of the suit land for more than 35 years. After his death on 11.03.1985, the Gram Panchayat, which is the recorded



owner of the land, conducted auction proceedings on 06.04.1985. The plaintiffs have assailed the said auction as null, illegal and void, contending that upon the demise of their father, they inherited his tenancy rights and continued to remain in possession of the suit land. It is their case that on the strength of the impugned auction proceedings, defendant No.1–Gram Panchayat, in collusion with defendants No.2 to 4, in whose favour the auction was held, started interfering in their possession.

3.2 It was further pleaded that far back in the year 1978, the Gram Panchayat had attempted to dispossess the plaintiffs' father. Kulwant Rai had filed a civil suit for injunction, which was decreed in the year 1983. In the said judgment, he was held to be a tenant in possession of the suit land and it was specifically directed that he could be dispossessed only in due course of law. Thereafter, the Gram Panchayat initiated ejectment proceedings against him under Section 7 of the Punjab Village Common Land Act before the Assistant Collector, 1st Grade, Hisar, which, according to the plaintiffs, were still pending. It is alleged that taking undue advantage of the death of Kulwant Rai, the Gram Panchayat proceeded to auction the suit land.

3.3 On these averments, the suit was instituted on 10.04.1985 seeking a declaration that the plaintiffs along with the proforma defendants are tenants in possession of the suit land, as detailed in the headnote of the plaint, for the last more than 35 years, and that the auction proceedings conducted by the Gram Panchayat on 06.04.1985 are illegal, null and void. Consequential relief of permanent injunction was also sought to restrain defendants No.1 to 4 from interfering in the plaintiffs' possession on the basis of the said auction.

4. The suit was contested by defendants No.1 to 4, who denied the plaintiffs' claim of tenancy. It was contended that although Kulwant Rai was earlier in possession of the suit land, such possession was unauthorized. It was further pleaded that upon his death, the Gram Panchayat lawfully resumed possession of the land and that no tenancy rights devolved upon the plaintiffs or pro-



forma defendants. It was asserted that the Gram Panchayat, through an open auction held on 06.04.1985, leased out the suit land to defendants No.2 to 4 for a period of one year, who were thereafter in lawful possession as tenants. On these grounds, dismissal of the suit was prayed for.

5. In rejoinder, the plaintiffs reiterated the averments made in the plaint and controverted the stand taken by the defendants. They further pleaded that along with the institution of the suit on 10.04.1985, an application for temporary injunction was filed, whereupon an interim ex parte injunction was granted on the same date restraining the defendants from taking forcible possession of the suit land. The said order was subsequently confirmed on 25.09.1985. It was further alleged that despite the subsistence of the injunction order, the plaintiffs were forcibly dispossessed by the Gram Panchayat during the pendency of the suit. Consequently, an application dated 28.05.1986 under Order XXXIX Rule 2A CPC was moved by the plaintiffs seeking restoration of possession and initiation of contempt proceedings against the defendants.

6. After framing the necessary issues, the parties were afforded adequate opportunity to lead evidence, which was duly taken on record. Upon appreciation of the oral and documentary evidence, the learned Trial Court returned a categorical finding that the father of the plaintiffs was in possession of the suit land as a tenant and that, upon his death, the plaintiffs had inherited the tenancy rights. However, the Trial Court further held that the plaintiffs had already been dispossessed from the suit land prior to the institution of the suit. On that premise, it was concluded that a suit for simpliciter injunction was not maintainable, as the Gram Panchayat had allegedly come into possession of the suit land before the filing of the suit. On the basis of these findings on the material issues, the suit was dismissed vide judgment & decree dated 08.11.1994 by the LAC.

7.1 On appeal filed by the plaintiffs, the learned First Appellate Court, upon a comprehensive re-appreciation of the entire oral and documentary evi-



dence, reversed the trial court finding. The Appellate Court examined the revenue record since beginning till the latest jamabandis and girdawaris, which consistently reflected the possession of Kulwant Rai as gair maurusi. It also relied upon the earlier judgment dated 12.12.1983, wherein Kulwant Rai's possession as tenant stood judicially recognised. The Appellate Court further found, as a matter of fact, that the Gram Panchayat had not taken possession by adopting any lawful procedure prescribed under the Punjab Village Common Land Act and that the auction proceedings were resorted to as a short-cut method to oust the plaintiffs, particularly during the pendency of injunction orders.

7.2 It has been specifically found that the plaintiffs were dispossessed during the pendency of the suit and despite the subsistence of interim protection granted by the civil Court. The Appellate Court has also recorded a clear finding that the ejectment proceedings under Section 7 of the Act remained pending till July 1986, which itself belies the stand of the Gram Panchayat that possession had lawfully reverted to it immediately upon the death of Kulwant Rai.

7.3 Accordingly, suit was decreed and mandatory injunction was also granted in favour of the plaintiffs so as to restore their possession.

8. Against the aforesaid reversal, this appeal has been filed by the defendant Gram Panchayat. It is contended that well-reasoned judgment of the trial court has been wrongly reversed by the appellate court by mis-appreciating the evidence on record.

9. On the other hand, Ld. Senior Advocate for the respondents urged that there was no scope for interference in the impugned judgment of the appellate court.

10. Having considered the submissions and the trial court record, this Court finds no merit in the present appeal.



11. The core controversy between the parties pertain to the auction proceedings dated 06.04.1985 conducted by the Gram Panchayat and the consequential dispossession of the plaintiffs.

12. The legal position with regard to inheritance of tenancy is well settled. Tenancy rights, unless expressly excluded by statute, are heritable. No provision has been pointed out by the appellant–Gram Panchayat which would extinguish the tenancy upon death of the tenant without recourse to due process. The First Appellate Court has rightly held that upon the demise of Kulwant Rai, his tenancy rights automatically devolved upon the plaintiffs and pro-forma defendants. Consequently, the Gram Panchayat could not dispossess them except by following the procedure prescribed under law.

13. Equally well settled is the principle that even a true owner cannot dispossess a person in settled possession except in accordance with law. Where dispossession takes place during pendency of the suit, or in violation of subsisting judicial orders, the civil Court is not powerless to restore possession and grant mandatory injunction so as to restore status quo ante. The Appellate Court has correctly applied this principle while granting the relief of restoration of possession.

14. Ld. Counsel for the appellant i.e. panchayat could not convince this court that possession of the suit land was taken from the plaintiffs in accordance with law, as mandated by the judicial verdict of 1983.

15. This Court finds that the reasoning adopted by the First Appellate Court is legally sound and firmly rooted in evidence. These findings are purely factual, based on contemporaneous revenue entries, judicial records, and admissions emerging from the defendants' own evidence. The reversal of the trial Court judgment is not based on reappraisal of evidence in a casual manner, but on a correct appreciation of settled legal principles governing tenancy, inheritance, and unlawful dispossession. The trial Court committed a clear error in de-

clining relief despite recording findings in favour of the plaintiffs on tenancy and possession. The Appellate Court has merely corrected that error.

16. In a second appeal, interference is permissible only where a substantial question of law arises. The appellant–Gram Panchayat has not been able to demonstrate any perversity, misreading of evidence, or incorrect application of law by the First Appellate Court. The findings recorded are findings of facts, supported by evidence, and do not give rise to any substantial question of law within the meaning of Section 100 of CPC.

17. Accordingly, this Court finds no ground to interfere with the well-reasoned judgment and decree passed by the learned First Appellate Court. The present second appeal is devoid of any merit and is hereby dismissed. The judgment and decree dated 21.11.1997 passed by the First Appellate Court are thereby affirmed.

(DEEPAK GUPTA)
JUDGE

22.01.2026
Neetika Tuteja

Whether speaking/reasoned?	Yes
Whether reportable?	No

Uploaded on.: 22.01.2026