

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

(214)

RSA-1036-2000 (O&M)
Date of Decision:-**19.02.2026**

HARYANA AGRO INDUSTRIES CORP.

... Appellant

Versus

SHRI GO-SHALA, JIND

... Respondent

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

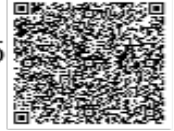
Present:- Mr. Padamkant Dwivedi, Advocate with
Ms. Ayushi, Advocate
for the appellant.

Mr. Ashish Gupta, Advocate
for the respondent.

VIRINDER AGGARWAL, J. (Oral)

1. The present Regular Second Appeal (here-in-after referred to as the “RSA”) has been instituted assailing the concurrent judgments and decrees rendered by the learned Courts below. By virtue of the impugned decisions, the suit instituted by the respondent–plaintiff seeking a decree of permanent injunction, restraining the appellant–defendant from interfering with or encroaching upon the suit property claimed to be owned and possessed by the plaintiff, came to be decreed.

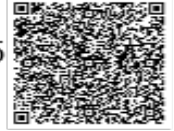
2. Briefly stated, the respondent–plaintiff, a Gaushala, instituted a suit seeking a decree of permanent injunction, asserting that it is the owner in lawful possession of agricultural land comprised in Khasra Nos. 209-29 and 236/33, situated on Hansi Road, Jind. It was pleaded that



adjoining the said land, on its western flank, lies land owned by the appellant–defendant, comprised in Khasra No. 236/32.

2.1. It was further averred that, at the instance of the defendant, an application for demarcation was moved and a demarcation was accordingly conducted by the Naib Tehsildar on 31.08.1987. Treating the demarcation as correct, the defendant allegedly erected iron pillars and affixed barbed wire fencing along the boundary line. It was also pleaded that the defendant had instituted Civil Suit No. 418 of 1989 against the plaintiff seeking demarcation, wherein the learned Civil Court, vide order dated 20.08.1990, observed that the boundary fixed by the pillars appeared to constitute the existing border line and had been in existence for several years. The grievance of the plaintiff is that the defendant is now threatening to raise a boundary wall by encroaching upon the plaintiff's land to the extent of approximately six feet.

3. Upon service of notice, the appellant–defendant entered appearance and contested the suit by filing a written statement. The ownership of the plaintiff over the suit land was specifically denied, though the demarcation conducted by the Naib Tehsildar on 31.08.1987 was admitted. The defendant, however, refuted the allegation of having erected iron pillars along the boundary and asserted that certain pillars were affixed on one side of the defendant's office premises merely to prevent stray animals from entering and causing disturbance. It was further pleaded that the earlier suit filed by the defendant was not adjudicated on merits but was dismissed as withdrawn upon vacation of the interim stay, and that the defendant has no intention of raising construction upon the



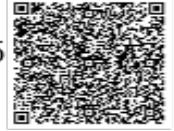
plaintiff's land, but only proposes to construct a boundary wall around his own property.

4. Thereafter, the plaintiff filed a replication, wherein the pleas and objections raised in the written statement were specifically traversed and denied, and the averments set forth in the plaint were expressly reaffirmed and reiterated. Upon completion of the pleadings and on a careful consideration thereof, the learned trial Court deemed it appropriate to crystallize the real points in controversy between the parties and, for the purpose of a structured and legally sound adjudication, framed the following issues for determination:-

1. Whether the suit has been filed by a authorised and competent person? OPP.
2. Whether the plaintiff is owner in possession of agricultural land comprised in khasra No.209/29 and 236/33?OPP.
3. Whether there exists a barbered fancing between the lands of plaintiff and the defendants? OPP.
4. Whether the suit is malicious, falsecious and vexatious and is entitled to compensatory costs under Section 35-A of C. P. C.? OPD.
5. Relief.

5. Upon the issues having been framed, both parties were afforded adequate and meaningful opportunity to lead evidence in support of their respective stands. After an exhaustive appraisal of the entire oral as well as documentary evidence brought on record, the learned trial Court decreed the suit in favour of the respondent–plaintiff.

5.1. Aggrieved thereby, the appellant–defendant preferred an appeal, which came to be dismissed by the learned First Appellate Court

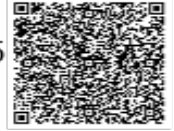


vide judgment and decree dated 01.12.1999, thereby affirming the findings recorded by the trial Court. Dissatisfied with the concurrent judgments and decrees of the Courts below, the appellant has invoked the jurisdiction of this Court by way of the present Regular Second Appeal.

6. Learned counsel appearing for the appellant has vehemently contended that the Courts below have failed to properly appreciate the evidence on record and have returned findings based on surmises and conjectures. It is further submitted that the demarcation report, which forms the substratum of the judgments under challenge, was not conducted in accordance with the instructions issued by the Financial Commissioner, and thus the evidence has been misread and misappreciated, vitiating the impugned findings.

7. Per contra, learned counsel for the respondent has supported the concurrent judgments and decrees passed by the Courts below, contending that the findings are well-reasoned and based upon proper appreciation of the evidence on record, and has accordingly prayed for dismissal of the present appeal.

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. I have heard learned counsel for the respective parties at length and have carefully perused the entire record with due circumspection.

10. The learned First Appellate Court has recorded a clear, categorical and well-reasoned finding, inter alia relying upon the demarcation report submitted by the Naib Tehsildar, that there is no encroachment by the respondent–plaintiff (Gaushala) upon the land of the appellant–defendant. It has further been concluded that the barbed wire fencing demarcating the two parcels of land had been fixed at the time when the defendant purchased his land. The First Appellate Court has also returned a definitive finding that the suit land comprised in Khasra Nos. 209/29 and 236/33 is owned and possessed by the respondent–Gaushala and that the appellant–defendant has no right, title or interest therein.

10.1. It is material to note that the scope of the suit was confined to the prayer for injunction against the alleged threat extended by the appellant–defendant to raise a boundary wall by encroaching upon a portion of the suit land. It is not in dispute that the respondent–plaintiff is the owner in possession of the suit property. The lis did not pertain to any alleged encroachment by the plaintiff upon the land of the defendant; rather, the suit was limited to the protection of the plaintiff’s possession against threatened unlawful interference.



10.2. In light of the proved position regarding the ownership and lawful possession of the respondent–plaintiff, coupled with the concurrent and well-reasoned findings recorded by both the learned Courts below, no perversity, illegality, misreading, or misappreciation of evidence is discernible so as to justify interference by this Court in the exercise of its appellate jurisdiction. The conclusions arrived at are firmly anchored in a proper and judicious appreciation of the material available on record and, therefore, warrant no interference.

10.3. Consequently, finding no merit in the present appeal, the same is hereby dismissed.

11. In view of the final adjudication of the principal matter, all pending miscellaneous application(s), if any, shall also stand disposed of. No separate orders are required in that regard.

19.02.2026
Gaurav Sorot

(**VIRINDER AGGARWAL**)
JUDGE

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