



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

120+136

**RSA-1252-2026 (O&M)
Date of decision: 11.05.2026**

SUKH CHAIN LAL AND ANR

....Appellant

Versus

HIRA LAL

...Respondent

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Vikram Singh, Advocate for the appellant.

YASHVIR SINGH RATHOR. J.(Oral)

CM-5132-C-2026

Present application has been filed to place on record Annexures A-1 and A2.

For the reasons mentioned in the application, the same is allowed. Annexures A-1 and A-2 are taken on record subject to all just exceptions.

CM-5133-C-2026

Present application under Section 151 of Code of Civil Procedure, 1908 to prepone the date of hearing in the main case from 07.05.2026 to some early date of hearing.

As the main case has been listed for today, the present application has become infructuous.

Dismissed as having been rendered infructuous.

RSA-1252-2026

1. This Regular Second Appeal is directed against the judgment and decree dated 23.01.2026 passed by the Court of the learned District Judge,



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Sonipat, vide which the appeal preferred by the defendant against the judgment and decree dated 23.02.2023 passed by the learned Civil Judge (Junior Division), Sonipat, whereby the suit instituted by the plaintiff/respondent was decreed, has been dismissed.

2. As per version of plaintiff, he is owner of a residential house bearing No.141, measuring 68 Sq. Yards, detailed in para No.1 of the plaint and shown in the site plan as ABCD, which was purchased by him vide sale deed dated 28.02.1994 from one Sadhu Ram. He was serving as a Postman and was unable to manage the suit property and due to close relationship with defendants, who are his father and brother, he allowed them to use and occupy the said house as licensees without payment of any rent for maintenance purposes. He also got executed one Power of Attorney before Sub Registrar Qadian, District Gurdaspur on 24.12.2007 in favour of defendant No.1 in respect of suit property. However, when disputes arose between them, he got cancelled the aforesaid Power of Attorney on 05.03.2010, vide deed No.82 and defendants were duly informed orally as well as through registered post. Thereafter, plaintiff requested the defendants several times to vacate the suit property and to hand over the possession to him but they are avoiding the same on one pretext or the other. Rather, they filed a false and frivolous suit to the effect that defendant No.1 is the owner of the suit property by way of some family settlement. After receiving the summons in the said civil suit, plaintiff terminated the license in favour of defendants and requested them to vacate the house but they refused to accede to his request, which necessitated the present suit. By way of present suit, plaintiff sought a decree for mandatory injunction directing the defendants to hand over



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vacant possession of the suit property to him.

3. Defendants in their written statement have challenged the suit preliminarily on the grounds of maintainability, cause of action, locus standi, court fee, jurisdiction and that the plaintiff has not come to the Court with clean hands. On merits, ownership of the plaintiff has been denied. Rather, it is submitted that the suit property was purchased by defendant No.1 in the name of plaintiff. Defendant No.1 was owner in possession of plot measuring 858 sq. feet in Sant Nagar Qadian, District Gurdaspur. Since plaintiff was serving at Gurdaspur, a family settlement took place between plaintiff and defendant No.1 on 19.12.2007 in writing in the presence of respectables, which was duly signed by the parties and according to the said settlement, both the properties were exchanged and the suit property fell in the share of defendant No.1 and since then, he is owner in possession of the same. Plaintiff had also got executed and registered one Power of Attorney in respect of the house in favour of defendant No.1 on 24.12.2007 but later on, he cancelled the same and threatened to dispossess the defendants from the suit property. Thereafter, defendant No.1 had instituted a suit for permanent injunction and present suit has been filed only as a counter-blast to the suit filed by the defendants. It is further submitted that plaintiff has no right to get the suit property vacated as he is owner in possession of the same on the basis of a family settlement. Dismissal of the suit has been sought.

4. From the pleadings of the parties, following issues were framed:-

1. *Whether the plaintiff is entitled to the decree for mandatory injunction for directing the defendant to vacate the suit property?*
OPD
2. *Whether the suit of the plaintiff is not maintainable in the*



present form? OPD

3. *Whether the plaintiff has not come to the Court with clean hands?OPD*

4. *Whether the plaintiff has no cause of action and locus standi to file the present suit?OPD*

5. *Relief.*

5. To prove his case, plaintiff-Heera Lal examined himself as PW-1 and tendered his affidavit Ex.PW1/A in evidence along with documents. Plaintiff further examined Sh. Rohit, Clerk from the office of Sub Registrar, Sonipat, as PW-2 and placed on record the following documents in his evidence:-

Sr. No.	Exhibits	Documents
1.	P1	Sale deed No.5411 dated 28.02.1994
2.	P1/A	Site plan of suit property
3.	P2	Intimation regarding cancellation of power of attorney by plaintiff
4.	P3	Cancellation deed of general power of attorney dated 05.03.2010
5.	P3/A	Hindi version
6.	P4	Legal notice dated 13.02.2015
7.	P5 & P6	Receipts
8.	P7	Sale deed dated 26.12.2007 executed by defendant no.1 in favour of plaintiff
9.	P7/A	Hindi version
10.	P8	Sale deed dated 14.07.2010 executed by defendant no.1 in favour of defendant No.2
11.	P8	Hindi version
12.	P9	Death certificate of defendant no.1
13.	P10	Power of attorney dated 24.12.2007 executed by plaintiff
14.	P10/A	Hindi version
15.	P11	Original cancellation of general power of attorney dated 05.03.2010.

6. On the other hand, defendants have examined defendant No.2-Sh. Tirath Ram as DW1, who has tendered his affidavit as Ex.DW1/A in his evidence



alongwith documents. Defendants have further examined Durga Dass as DW2. The defendants have placed on record the following documents in their evidence, which reads as under:-

<i>Sr. No.</i>	<i>Exhibits</i>	<i>Documents</i>
1.	Mark D1	Copy of agreement to sell dated 22.12.2009
2.	Mark D1/A	Hindi version
3.	Mark D2	Copy of family settlement deed dated 19.12.2007
4.	Mark D2/A	Hindi version
5.	Mark D3	Property tax receipt

7. After going through the material on file, learned trial Court held that the plaintiff is the owner of the suit property and defendants are in possession over the same as licensees, which has been terminated and held that plaintiff is entitled to possession of the suit property. Issue No.1 was decided in favour of plaintiff, while issues No.2 to 4 were disposed of as not pressed and suit filed by the plaintiff was decreed as prayed for.

8. Feeling aggrieved, defendants preferred an appeal which has been dismissed vide impugned judgment and decree dated 23.01.2026. Feeling aggrieved, present regular second appeal has been instituted. The record has been perused and learned counsel for the appellant has been heard.

9. After hearing learned counsel for the appellant and on going through the material on file, I am of the considered opinion that the appeal in hand is liable to be dismissed for the reasons discussed hereinafter.

10. Plaintiff is admittedly the recorded owner of the suit property, vide sale deed dated 28.02.1994 and as per version of plaintiff, defendants who are his father and brother were allowed to reside in the same as licensees. On the other hand, stand of the defendants is that defendant No.1 had purchased the suit



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property in the name of plaintiff. Later on, the suit property was exchanged and plaintiff was given one property in District Gurdaspur in a family settlement and the suit property fell in the share of defendant No.1 and he is in possession over the same as owner.

11. However, both the courts below have concurrently held that no such family settlement or exchange ever took place and defendants have miserably failed to prove the same. Even defendant No.2 who had stepped into the witness box has admitted that suit property was purchased by plaintiff from one Sadhu Ram. He also admitted that plaintiff had earlier executed a Power of Attorney in favour of defendant No.1, which was later on cancelled. Though he alleged that suit property fell in the share of defendants in a family settlement yet he failed to prove any such settlement and defendants have thus miserably failed to prove that defendants were in possession over the suit property as owners. In these circumstances, both the Courts rightly came to the conclusion that they were in possession over the suit property as licensees and suit for mandatory injunction for delivery of possession was maintainable and plaintiff was entitled to possession of the same after termination of the license. First Appellate Court has placed reliance upon a judgment passed by a Co-ordinate Bench of this Court dated 24.12.2015 in *RSA No.4466-2025 titled Raj Kumar Vs. Ram Dutta (now deceased) through his LRs, 2019(4) CCC 635 (P&N) titled Rekha Jain Vs. Kamal Joshi & Anr. and 2022(1) CCC 106 (Kerala) titled Varghese Kuruvilla @ Sunny Kuruvilla*. As such, the Trial Court as well as the First Appellate Court have appreciated the facts of the case and material on file in the correct perspective while giving a concurrent finding that plaintiff is owner of the suit property and defendants are in possession



over the same as licensees which has been terminated and plaintiff being owner is entitled to possession of the same and there is thus no reason to take a contrary view and to interfere with the concurrent findings of facts recorded by both the Courts below.

12. It is well settled that in Regular Second Appeal, this Court has limited jurisdiction to interfere in the concurrent findings of facts returned by both the Courts below. Hon'ble Supreme Court in Law Finder Doc Id # 2034559 - *M/s. Shivali Enterprises v. Godawari (Deceased) (SC)*; ; has held as under:-

*"14. This Court, in the case of (2019) 17 SCC 71- **Randhir Kaur v. Prithvi Pal Singh and Others**, after considering the scope of interference under the old section 100 of the Civil Procedure Code, 1908 (for short "CPC") and Section 41 of the Punjab Act, has observed thus:*

"15. A perusal of the aforesaid judgments would show that the jurisdiction in second appeal is not to interfere with the findings of fact on the ground that findings are erroneous, however, gross or inexcusable the error may seem to be. The findings of fact will also include the findings on the basis of documentary evidence. The jurisdiction to interfere in the second appeal is only where there is an error in law or procedure and not merely an error on a question of fact."

15. It could thus be seen that this Court has held that, even when a court exercises jurisdiction under Section 41 of the Punjab Act, it cannot interfere with the findings of fact in second appeal on the ground that the said findings are erroneous, howsoever gross or inexcusable the error may seem to be. It has been held that the findings of fact would also include the findings on the basis of documentary evidence. The jurisdiction under Section 41 of the Punjab Act would be available only when there is a substantial error or defect in the procedure provided by the CPC or by any other law for the time being in force."
(Emphasis added)"



13. In view of the discussion above, no ground is made out to interfere in the impugned judgments and decrees passed by the Trial Court and the Appellate Court and the present Regular Second Appeal is hereby dismissed. No order as to costs.

14. All pending applications, if any, shall stand disposed of.

11.05.2026
amandeep

(YASHVIR SINGH RATHOR)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No