



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-2266-1999

Gram Panchayat, Jamalpur

. . . . Appellant

Vs.

Bir Singh

. . . . Respondent

Reserved on: 24.03.2026

Pronounced on: 01.04.2026

Pronounced Fully/Operative Part: Fully

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Paramvir Singh Doon, Advocate, for the appellant.
Mr. Man Mohan, Advocate, for the respondent.

DEEPAK GUPTA, J.

The present Regular Second Appeal has been filed by the defendant–Gram Panchayat, Jamalpur, challenging the concurrent findings recorded by the Courts below, whereby the suit instituted by the plaintiff–Bir Singh (*respondent herein*) seeking a decree of permanent injunction was decreed by the learned trial Court vide judgment dated 15.06.1998 and the appeal preferred by the defendant was dismissed by the learned First Appellate Court on 25.02.1999.

2. For the sake of convenience, the parties are referred to as per their status before the trial Court. Trial court record has been perused.

3. The case set up by the plaintiff is that he is in settled possession of a residential house [shown by letter ABCD with red colour, as depicted in the site plan, situated within the *abadi deh* of the village for the last more than 40 years, where he has been residing with his family. The said house is depicted in the site plan placed on record. It is his grievance that the defendant–Gram Panchayat, having no concern with the said property, sought to demolish the same and to dispossess him forcibly, allegedly on account of political rivalry. Despite requests, the Panchayat persisted in its threat, compelling the plaintiff to institute the suit for permanent injunction.

4. The defendant–Gram Panchayat contested the suit by raising a preliminary objection regarding the bar of jurisdiction of the Civil Court. On merits, it was asserted that the plaintiff had encroached upon Panchayat land comprised in Rectangle No.133, Khasra No.24 in the year 1994, and that the Panchayat was well within its rights to remove such encroachment. The claim of the plaintiff regarding the property being part of *abadi deh* was specifically denied.

5. On the basis of the pleadings, issues were framed and evidence was led by both sides. Upon appreciation of the evidence, the learned trial Court held that the plaintiff had successfully established his possession over the suit property for more than four decades and that the same formed part of the *abadi deh* of the village. It was further held that the defendant had failed to prove that the suit property was part of Khasra No.133/24. The objection regarding jurisdiction was also decided against the defendant, and consequently, the suit was decreed. The First Appellate Court, upon re-appraisal of the entire evidence, affirmed these findings.

6. Assailing the aforesaid concurrent findings, learned counsel for the appellant–Gram Panchayat has contended that once a plea had been raised that the suit property formed part of *shamlat deh*, the jurisdiction of the Civil Court stood barred. It is argued that such disputes are required to be adjudicated by the authorities under the special statute governing village common lands. Reliance is placed upon the ***Dalip Singh v. Baljeet, 2025, NCPHC-150531;*** and ***Bhartu v. Ram Sarup, 1985 RRR 353 (P&H) DB.***

7. *Per Contra*, learned counsel for the respondent–plaintiff has supported the impugned judgments by submitting that the findings recorded by both the Courts below are based on proper appreciation of evidence and do not give rise to any substantial question of law warranting interference in second appeal.

8. I have heard learned counsel for the parties and perused the record.

9. At the outset, it deserves to be noticed that the scope of interference in a Regular Second Appeal is limited. Concurrent findings of fact recorded by the Courts below cannot be interfered with unless it is demonstrated that the same are perverse, based on misreading of evidence, or suffer from a substantial error of law.

10. On a careful appraisal of the evidence, it is evident that the plaintiff examined himself and also produced independent witnesses, including the Lambardar of the village and another resident, who categorically deposed that the suit property is situated within the *abadi deh* and that the plaintiff has been residing there for several decades. Their testimonies remained unshaken in cross-examination. The plaintiff further placed on record a Chulha tax receipt Ex.P2, which indicates recognition of his occupation by the Panchayat itself, as well as a ration card to corroborate his residence. The site plan Ex.P1 of the property was also proved.

11. In contrast, the defendant–Gram Panchayat relied upon the testimony of its Sarpanch and produced revenue record in the form of Jamabandi Ex.D1 and Aks-Sajra Ex.D2 to show that Khasra No.133/24 belongs to the Panchayat. However, a crucial link in the defendant’s case is conspicuously missing. There is no evidence to establish that the suit property, as depicted in the site plan Ex.P1, actually forms part of the said khasra number. No demarcation was carried out at any stage to identify the suit property with reference to the revenue record. In disputes of this nature, the identity of the property assumes central importance, and the burden lay heavily upon the defendant, who asserted encroachment, to establish such identity. The failure to do so renders the defence speculative and unsupported.

12. The Courts below have, therefore, rightly concluded that the defendant failed to discharge its burden of proving that the suit property is part of Panchayat land. On the contrary, the consistent and corroborated evidence led by the plaintiff establishes long-standing possession within the *abadi deh*. Even though no formal title document has been produced, it is well settled that settled

possession, particularly in *abadi deh*, is entitled to protection against forcible dispossession otherwise than in due course of law.

13. The contention regarding bar of jurisdiction also does not merit any acceptance. The exclusion of jurisdiction of the Civil Court is not to be readily inferred and must be strictly construed. Such exclusion would operate only where the dispute squarely falls within the ambit of the special statute and the foundational facts, namely that the land is *shamlat deh*, stand established. A mere assertion by the Panchayat, without substantiating evidence, cannot be permitted to oust the jurisdiction of the Civil Court. Otherwise, jurisdiction would be casually defeated by any bald plea.

14. In the present case, the Panchayat has failed to prove that the land in dispute is *shamlat deh*. The suit is essentially one for injunction to protect possession, a relief which is squarely within the domain of the Civil Court. The appellant has also been unable to indicate any alternative forum competent to grant such relief. The judgments relied upon by the appellant are distinguishable on facts, as in those cases the nature of the land as *shamlat deh* or land meant for common purposes stood clearly established.

15. In view of the aforesaid discussion, this Court finds that the findings recorded by both the Courts below are based on proper appreciation of evidence and correct application of law. No perversity or illegality has been pointed out, nor does any substantial question of law arise for consideration.

16. Consequently, the present appeal, being devoid of merit, is dismissed.

17. Pending application(s), if any, shall also stand disposed of.

01.04.2026

Vivek

(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes
Whether reportable	No

Uploaded on: 01.04.2026