



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

RSA-3086-1999 (O&M)

Reserved on :-28.01.2026

Date of Pronouncement:-02.02.2026

Uploaded on:-04.02.2026

Sham Sunder and Another

... Appellants

Versus

Haryana Urban Development Authority and Another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Mr. S.K. Jain, Advocate;
Mr. Deepak Jain, Advocate and
Mr. Akshay Jain, Advocate
for the appellants.

Mr. H.S. Gill, Advocate
for the respondents.

VIRINDER AGGARWAL, J.

1. The appellants–plaintiffs, aggrieved by the judgment and decree dated 03.08.1999 rendered by the learned Additional District Judge, Jind, which reversed the considered and well-reasoned judgment and decree dated 23.10.1997 of the learned Civil Judge (Senior Division), Jind, have approached this Court under its appellate jurisdiction by way of the present Regular Second Appeal (“RSA”). The appellants seek restoration of the decree lawfully and rightly granted by the learned Trial Court and appropriate redress for the substantial miscarriage of justice thereby



occasioned. It is respectfully submitted that the impugned judgment and decree are tainted by manifest perversity, material errors of law, and a fundamentally erroneous appreciation of the evidentiary record, culminating in grave injustice to the appellants. In light of the foregoing, the appellants pray that this Hon'ble Court set aside the impugned judgment and decree and restore the lawful and well-reasoned decree of the learned Trial Court.

2. The sequence of events antecedent to, and culminating in, the present appeal may be succinctly set out as under -

“According to the plaintiffs, they, along with their father, Ram Sarup, had constructed a Gair Mumkin Marhi measuring 2 feet by 2 feet by 2 feet, which has existed for over twelve years. The last remains of the plaintiffs’ grandfather are interred within this Marhi, and the plaintiffs, together with their family members, perform daily worship at the same. The plaintiffs’ residence is situated approximately fifteen yards from the Marhi, with a road intervening between the Marhi and their house.

It is averred that the land on which the Marhi was originally constructed was in the proprietary possession of Ram Sarup; however, a portion of this land was subsequently acquired by the defendants for the construction of a road. Even prior to the acquisition, the specific area upon which the Marhi stands, as well as the surrounding portion, remained untouched by the defendants. The edge of the constructed



road lies approximately fifteen feet from the Marhi. While the land was acquired for road construction, the portion occupied by the Marhi and the adjoining area remains unutilized and, in law, is liable to be restored to its rightful owner.

The plaintiffs contend that the Marhi is intimately connected to their religious sentiments, and its demolition by the defendants would result in irreparable loss and injury. Despite repeated requests made to the defendants to refrain from demolishing the Marhi, the defendants remained adamant, which necessitated the institution of the present suit seeking a decree for permanent injunction.”

3. Upon due service of summons, the defendants entered appearance and filed their written submissions, the material contents of which are set out as follows:-

“Defendants Nos. 1 and 2 filed a joint written statement, contending that the Marhi in question had been demolished by them on 18.10.1993, but was subsequently reconstructed by the plaintiffs. They further asserted that a previous Marhi had been erected by the plaintiffs only a year prior to 18.10.1993. According to the defendants, the Marhi is situated at a considerable distance from the plaintiffs’ residence, and the plaintiffs are trespassers on the land where the Marhi stands.

It was averred that the defendants had acquired the entire land, including the portion on which the Marhi was



constructed, and that the plaintiffs did not raise any objection under Section 5-A of the Land Acquisition Act at the time of acquisition, despite having the opportunity to do so. The defendants further contended that the present Marhi was constructed by the plaintiffs only after the institution of the present suit and obtaining of an interim stay, and that the Marhi was again demolished by the defendants, only to be reconstructed illegally by the plaintiffs. It was submitted that the plaintiffs erected the Marhi with the ulterior motive of obstructing the development work in the Sector, as the completion of such work required possession of the disputed land. In view of the foregoing, the defendants prayed that the suit be dismissed.”

4. The plaintiffs, in response, filed a **replication** in which they categorically denied the contentions advanced by the defendants and reiterated, with clarity and emphasis, the substantive allegations contained in the plaint. Following a meticulous and comprehensive examination of the pleadings, documentary evidence, and the submissions advanced by both parties, the learned Trial Court deemed it necessary to frame issues for adjudication, thereby facilitating a precise, thorough, and coherent determination of the respective claims and defenses, which are enumerated as follows:-

1. *“Whether the plaintiffs are entitled to the relief of injunction on the grounds mentioned in the plaint ?OPP.*



2. *Whether the plaintiffs have no locus-standi to file the present suit ?*

OPD

3. *Whether the suit is not maintainable in the present form ?OPD*

4. *Whether there is no cause of action to the plaintiffs to file the suit ?*

OPD

5. *Whether the suit is not properly valued for the purposes of court fee and jurisdiction?OPD*

6. *Whether the civil court has no jurisdiction 6. to try the suit ?OPD.*

7. *Relief.”*

5. Both parties were afforded a full and fair opportunity to adduce evidence in support of their respective claims. Upon conclusion of the trial and after hearing learned counsel for both sides, the learned Trial Court, proceeded to decree the suit with the following observations:-

“Consequent to the foregoing discussion and for the reasons recorded therein, the suit filed by the plaintiffs for a permanent injunction is hereby allowed and decreed with costs. It is directed that the defendants shall be restrained from obstructing the plaintiffs in performing worship at the last remains of their grandfather, preserved in the form of the Marhi.”

6. Aggrieved by the judgment and decree, the respondents/appellants filed an appeal before the learned First Appellate Court, who allowed the appeal, observing as follows:-

“The learned trial Court has failed to properly adjudicate the controversy raised in the suit and has erroneously decreed the plaintiffs’ claim. The appeal is, therefore, found to be meritorious and is accordingly allowed. In consequence, the impugned judgment and decree are set aside. The suit instituted by the plaintiffs–respondents is hereby dismissed, with each party to bear its own costs.”



6.1. Aggrieved by the reversed findings of the learned First Appellate Court, the appellants–plaintiffs instituted the present appeal. Upon its admission, notices were duly issued, following which the respondents, through their learned counsel, entered appearance and opposed the appeal. The records of the Courts below were summoned and made available for comprehensive examination and adjudication.

7. I have heard learned counsel for the parties at length and have considered their submissions in conjunction with the pleadings, documentary and oral evidence, and the findings recorded by the Courts below. The entire record has been subjected to a meticulous and exhaustive scrutiny to ascertain “*whether the impugned judgment and decree suffer from any legal infirmity, material error, or irregularity warranting interference by this Court*”?

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. Learned counsel for the appellants contended that the learned First Appellate Court reversed the findings on Issue No. 1 solely on the ground that the suit land had been acquired and compensation had been received by the appellants, thereby holding them to be estopped from maintaining a suit for permanent injunction. It was argued that the learned First Appellate Court failed to duly consider the report of the Local Commissioner, wherein it was observed that the Marhi in question was not a recent construction. It was further submitted that the reversal of findings was founded on legal technicalities without attaching due significance to the deep sentimental and religious attachment of the appellants to the Marhi. Learned counsel also urged that the appellants did not file objections before the Land Acquisition Collector as they were unaware that the respondents would demolish the Marhi.

10. It is, however, an admitted position on record that the suit land stood acquired by the State of Haryana and that the appellants/plaintiffs have already received compensation in respect of the land on which the Marhi exists. It is further undisputed that the appellants/plaintiffs never raised any objection before the Land Acquisition Collector at the time of acquisition, nor did they seek exemption of the land comprising the Marhi from acquisition. While it is also not in dispute that the Marhi exists on the suit land and that the Local Commissioner's report indicates that it is an old construction, the learned First Appellate Court reversed the findings on Issue No. 1 on the legally sustainable ground that once the land had been acquired and compensation accepted, the appellants were estopped from seeking injunctive relief.



11. The learned First Appellate Court rightly placed reliance upon the judgment of the Division Bench of this Court in ***Tarapal v. State of Punjab, 1995 PLJ 159***, wherein it was held that upon acquisition and taking over of possession, the land vests absolutely in the State, free from all encumbrances, and the title thereto stands completely extinguished in favour of the Government. Reliance was also rightly placed upon the judgment of the Division Bench of this Court in ***Akhand Sri Bharmuta v. State of Punjab, reported in 1989 PLJ 39***, wherein it was categorically held that religious places are not immune from acquisition.

12. A perusal of the judgment of the learned Trial Court reveals that its findings were largely influenced by sentimental considerations, observing that the Marhi pertained to the ancestors of the appellants and drawing a comparison with monuments of kings, emperors, queens and ranies preserved and protected by the Government. The learned Trial Court further reasoned that the sentimental value attached by the appellants to the Marhi of their grandfather could not be considered inferior to that associated with historical monuments, and placed reliance upon Rule 9 of the Land Acquisition Rules to hold that land comprising the Marhi also merited exemption on account of religious sentiments.

13. It is, however, settled law that civil courts are required to adjudicate disputes on the basis of legally admissible evidence and established principles of law, and not on emotional or sentimental considerations. The learned First Appellate Court has rightly concluded that since the land had been acquired, compensation had been accepted by the appellants, and no objections were ever raised before the Land



Acquisition Collector on the ground of the existence of the Marhi, the appellants were precluded from subsequently seeking injunctive relief.

14. Undoubtedly, Rule 9 of the Land Acquisition Rules contemplates the making of a special reference to the Land Acquisition Collector in respect of religious places. However, it was incumbent upon the appellants/plaintiffs to raise such an objection at the appropriate stage before the Land Acquisition Collector. Only upon such objection could the question of exemption from acquisition have arisen for consideration. Admittedly, no such objections were ever raised.

15. As regards the sentimental analogy drawn by the learned Trial Court with historical monuments of emperors, kings, rajas and ranies, the appellants/plaintiffs have failed to place any material on record to establish that such monuments have been preserved after payment of compensation to the legal heirs of former sovereigns. Such monuments are protected on account of their acknowledged historical and national significance. If the Marhi of the appellants' grandfather carried such sentimental or religious importance for the appellants, they ought to have objected to the acquisition proceedings and refrained from accepting compensation for the land on which the Marhi stands, but they knowingly consented to acquisition and accepted compensation and subsequently cannot be allowed to raise a plea of having some sentiments attached to Marhi.

16. Once the land vested in the State upon acquisition, the State acquired full authority to utilize the same in accordance with law. No illegality, perversity or infirmity can thus be attributed to the findings

recorded by the learned First Appellate Court. Finding no merit in the present appeal, the same is accordingly **dismissed**.

17. Consequent upon the final adjudication of the principal matter, all pending miscellaneous applications, if any, arising out of or connected with the present proceedings, shall stand disposed of by necessary implication. In light of the conclusions reached herein, no separate or independent orders are required in respect of such applications, as their determination has become wholly infructuous and academic.

02.02.2026
Gaurav Sorot

(**VIRINDER AGGARWAL**)
JUDGE

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