



136 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-1340-2026 (O&M)
Date of Decision: 21.04.2026

SANDEEP SINGH AND ANOTHER

..... Appellants

VERSUS

MOHINDER KAUR AND ANOTHER

..... Respondents

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Ferry Sofat, Advocate
for the appellants.

YASHVIR SINGH RATHOR, J. (Oral)

1. This regular second appeal is directed against the judgment and decree dated 11.03.2026 passed by the Court of learned Additional District Judge, Patiala, whereby the appeal against the judgment and decree dated 27.09.2023 passed by learned Additional Civil Judge (Senior Division), Patiala in civil suit bearing No.1412 of 2020, whereby the suit filed by plaintiffs/respondents was partly decreed, has been dismissed.

2. As per version of plaintiffs, the defendants are their son and daughter-in-law. However, for the past several years, the defendants have been residing separately from them, while remaining in unauthorized and illegal occupation of one room, kitchen, and latrine/bathroom forming



part of House No. 90, Adarsh Nagar, behind Thapar College, Patiala, which is owned by the plaintiffs. The relation between them are not cordial and the defendants maintain a separate mess and have no concern with the plaintiffs. After the marriage of defendant No.1 with defendant No.2, the defendants lived jointly with them for a short period. During their joint residence, the defendants misbehaved, maltreated and abused the plaintiffs and did not give them due respect. Defendants also misbehaved with the relatives and visitors of the plaintiffs which led to disputes and ultimately, the parties started living separately. Since then, the parties are not on visiting terms despite residing under the same roof. However, another son of the plaintiffs resides on the first floor of the house. Initially, he used to use the common entrance. However, due to his late-night arrivals causing disturbance, a separate gate was constructed on the left side of the house, opening onto a 40 feet wide main road, for his independent access. Defendants have no concern with the said gate. A portion of the property facing the main road was initially kept vacant for commercial purposes but was later on sold at the time of the marriage of their daughter. However, the said gate was retained for the use of the other son residing on the first floor. Despite living separately, defendants continued to interfere in the peaceful life of the plaintiffs and subjected them to abuse, harassment, maltreatment and physically assaulted them with the support of the father of defendant No.2. Under compelling circumstances, they disowned and expelled the defendants from all their



movable and immovable properties and a public notice dated 03.06.2008 was published in the newspaper *Daily Chardikala* on the basis of an affidavit executed by plaintiff No.2. Plaintiffs approached the police seeking eviction of the defendants from the portion under their occupation. However, no action was taken. According to the plaintiffs, the defendants are in illegal possession of the said portion and thereafter, the suit was instituted. By way of present suit, plaintiffs sought a declaration to the effect that defendants, who are their son and daughter-in-law, have no concern with the plaintiffs or the suit property and the possession of defendants over one room, kitchen and latrine/bathroom on the ground floor of House No. 90, Adarsh Nagar, behind Thapar College, Patiala, is illegal and without any right, title or interest and they are bound to vacate the same and hand over vacant possession of the suit property to the plaintiffs.

3. Upon notice, defendants appeared and filed their written statement wherein the relationship between the parties has been admitted. However, the remaining averments of the plaint have been specifically denied and a prayer has been made for dismissal of the suit.

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

- “1. *Whether the plaintiffs are entitled to the relief of declaration as prayed for? OPP.*
2. *Whether the defendants are bound to vacate the suit land? OPP.*



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

4. *Relief.”*

5. Learned Trial Court vide its judgment and decree dated 27.09.2023 decided issues No.1 and 2 in favour of plaintiffs holding that the plaintiffs are the owners of the suit property and defendants are residing in the same as licensees. Consequently, the suit was partly decreed and the defendants were directed to vacate the premises and hand over the vacant possession to the plaintiffs within three months. The judgment and decree passed by the Trial Court was challenged by the defendants through an appeal, which has been dismissed by learned Additional District Judge, Patiala vide judgment and decree dated 11.03.2026.

6. Feeling aggrieved, the present regular second appeal has been preferred. I have heard learned counsel for the appellants and have gone through the material on file.

7. Learned counsel for the appellants argued that the judgments and decrees passed by both the courts below are based on conjectures and surmises. The pleadings of the parties and evidence on file have not been appreciated in the correct perspective. Learned counsel next contended that no document of title has been placed on file by the plaintiffs to prove their ownership. Infact, the suit property is the ancestral property in the hands of plaintiff No.2, in which defendant No.1 has an interest by birth,



being a coparcener. They have never maltreated the plaintiffs and they are in lawful possession of the suit property and plaintiffs have got no legal right to evict them. Learned counsel further contented that suit filed by the plaintiffs was not maintainable as they have only sought possession without seeking relief of declaration, which was mandatory as per Section 34 of the Specific Relief Act, 1963 and the impugned judgments and decrees are thus liable to be set aside and suit is liable to be dismissed.

8. However, I do not find any force in the contentions raised by learned counsel for the appellants and appeal in hand is liable to be dismissed for the reasons discussed hereinafter.

9. Admittedly, defendant No.1 is the son of plaintiffs and defendant No.2 is their daughter-in-law, who is wife of defendant No.1. As per version of plaintiffs, suit property is owned by them, in which defendants are residing in some portion as licensees, who maltreat them and have severed their relationship with them and defendants are thus liable to be evicted and they are bound to hand over possession of the portion in their occupation to the plaintiffs.

10. On the other hand, stand of defendants is that the suit property is ancestral in nature and not the self-acquired property of the plaintiffs and plaintiffs have got no right to evict them as they are not in occupation of the same as licensees. As such, by taking the plea that the suit property is ancestral, defendants have implicitly admitted the



ownership of plaintiffs. It is well settled that every property is presumed to be self-acquired property unless proved to the contrary by the party which asserts so. In the present case, defendant No.1 Sandeep Singh, while appearing as DW1, has admitted during his cross-examination that the house is in the name of his mother, which may have been purchased in the year 1985-1986. This part of his admission thus clinches the entire controversy and on the other hand, defendants have not led any cogent and convincing evidence to establish that the suit property in the hands of plaintiffs is ancestral property or that defendant No.1 has any interest in the same by birth. Since, the suit property is owned by the plaintiffs, the possession of the defendants in the same is merely as licensees, being the son and daughter-in-law of plaintiffs. Plaintiffs have severed their relationship with them and have revoked their licence and in these circumstances, the defendants are bound to hand over the vacant possession of the portion in their occupation to the plaintiffs and plaintiffs are thus entitled to recover possession of the same from the defendants. The trial Court as well as learned Appellate Court have also appreciated the facts of the case and material on file in the correct perspective while arriving at this conclusion.

11. As such, the findings arrived at by both the Courts below do not suffer from any infirmity or illegality much less perversity or error in law or procedure 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. 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 **Randhir Kaur v. Prithvi Pal Singh and Others (2019) 17 SCC 71**, 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)



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

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

(YASHVIR SINGH RATHOR)
JUDGE

21.04.2026
Priyanka Thakur

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No