

**RSA-4590-2001****221 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****RSA-4590-2001****Date of Decision:16.02.2026****RATTAN SINGH (SINCE DECEASED) THROUGH LRS AND OTHERS
...Appellants****Vs.****STATE OF PUNJAB AND OTHERS****...Respondents****CORAM:- HON'BLE MR. JUSTICE VIRINDER AGGARWAL****Present:** Mr. Harpreet Pal Singh Bunker, Advocate
for the appellants.

Mr. I.S. Kingra, Senior DAG, Punjab.

VIRINDER AGGARWAL, J. (Oral)

1. The present regular second appeal has been filed against the judgment and decree dated 06.08.2001 passed by the learned Additional District Judge, Rupnagar, whereby the appeal filed against the judgment and decree dated 09.10.2000 of the learned Additional Civil Judge (Junior Division), Ropar, was dismissed and the same was affirmed.

2. The appellant/plaintiff filed a suit for a mandatory injunction, seeking a direction to the defendants to allot 5 standard acres of land to him out of the land mentioned in the headnote of the plaint, and restraining the defendants from transferring or alienating the said land in any manner. The appellant/plaintiff's case is that he was in lawful possession of land measuring 71 kanals 06 marlas, more particularly comprised in Khasra Numbers 745 (2-13), 746 (0-0), 747 (6-0), 776 (4-13), 777 (8-0), 778 (8-0), 779 (9-0), 780 (8-0), 1390 (6-0), and 1854 (8-0), situated in Village Ghanauli, as a tenant under Jawali and Biso. The detailed description of the land is fully set out in the plaint. Prior to 1960, Jawali and Biso filed Ejectment Application No. 46 dated 09.05.1960

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under Section 14-A of the Punjab Security of Land Tenures Act, which was decided on 30.01.1961. In the said order, it was directed that the appellant/plaintiff be resettled on surplus land in the village, and that possession of the 5 standard acres land cultivated by him be handed over to the landowners for self-cultivation. Subsequently, the land under tenancy with the appellant/plaintiff was acquired by the State of Punjab for the construction of the Ropar Thermal Plant. However, at the time of acquisition, no alternate land was allotted to the appellant/plaintiff in accordance with the order dated 30.01.1961 passed by the Collector Agrarian, Ropar. Later, vide order dated 04.06.1993, land measuring 119 kanals 13 marlas was allotted in lieu of land measuring $3\frac{1}{4}$ standard acres, with the balance land measuring $1\frac{1}{4}$ standard acres to be allotted to the appellant/plaintiff subsequently. The plaintiff deposited Rs. 10,500/- on 08.06.1993 as the sale consideration for the allotted land, and Certificate No. 105 dated 08.06.1993 was also issued by the Collector Agrarian, Ropar, in respect thereof. However, the Sub-Divisional Officer (Civil), Ropar, subsequently cancelled the allotment vide order dated 04.06.1993, on the ground of non-availability of certain required revenue records, and the appellant/plaintiff was not given possession of the allotted land. The appellant/plaintiff contends that the State of Punjab owns the land mentioned at Serial Nos. a, b, c, d and e in the headnote of the plaint, and as the same has been declared surplus, the defendants should be directed to allot 5 standard acres of land to him out of the said surplus land.

3. The suit was contested by the respondents/defendants, who raised several preliminary objections. They contended that the suit was not maintainable in its present form and that this Court had no jurisdiction to

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entertain and try the matter. It was further alleged that the plaintiff lacked locus standi to institute the suit, that the suit was not properly valued for the purposes of court fee and jurisdiction, and that it was bad for misjoinder of necessary parties, as all interested and affected parties had not been made respondents. On the merits, the defendants asserted that the appellant/plaintiff was not in lawful possession of the disputed land in the year 1960, contrary to the claim made in the plaint. According to the revenue records, Bishni, widow of Ganga Ram, was recorded as the lawful owner of the land from Kharif 1967 to Rabi 1970, and the land was subsequently acquired under Award No. 83 dated 24.07.1981. It was further contended that at the time of acquisition, the lands described in paragraphs A to E of Village Beli, Nangal, Dangoli, Bhaowal, and Pirthipur vested in the Provincial Government, and therefore could not be allotted to any individual. The defendants submitted that the said land was under nadi (river) and drains, was not cultivable, and had never been declared surplus by the Government, as it formed part of extensive landholdings.

4. In response to these contentions, the plaintiff filed a replication, specifically controverting the averments made in the written statement and reiterating the case as originally pleaded in the plaint. The plaintiff emphasized his claim of possession, lawful entitlement to the surplus land, and compliance with all requisite procedures for allotment, as well as his entitlement to relief by way of a mandatory injunction. On the basis of the pleadings and disputes raised by the parties, the Court framed the following issues for adjudication:

1. *Whether plaintiff is entitled for mandatory injunction as prayed for?OPP*
2. *Whether suit is not maintainable?OPD*
3. *Whether this Court has no jurisdiction to try this suit?OPD*

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4. *Whether plaintiff has locus-standi to file this suit?OPP*
5. *Whether the suit is properly valued for the purposes of Court fee and jurisdiction?OPP*
6. *Whether suit is bad for misjoinder of parties?OPD*
7. *Whether the suit is bad for nonjoinder of parties?OPD*
8. *Relief.*

5. After hearing the arguments, the learned Additional Civil Judge (Senior Division), Ropar, dismissed the suit. Aggrieved by the judgment and decree so passed, the appellant preferred an appeal before the learned Additional District Judge, Ropar, which was also dismissed. Being dissatisfied with the concurrent judgments and decrees of the learned trial Court and Appellate courts, the appellant filed the present appeal. The appeal was admitted for hearing vide order dated 12.07.2004. The respondent, namely the State of Punjab, appeared to contest the appeal. The record of the lower courts was called for and is now available on the Digital Management System (DMS).

6. I have heard counsel for the parties and gone through the record carefully.

7. The learned First Appellate Court dismissed the appeal by recording a finding that the appropriate remedy available to the appellant/plaintiff was to approach the Collector Agrarian, as the surplus area is to be utilized by the State Government through the Collector Agrarian, and the Civil Court has no role in the matter. It was further held that the jurisdiction of the Civil Court is expressly barred under Section 25 of the Act, and that the appellant/plaintiff had not approached the competent authority for setting aside the order cancelling the allotment.

8. As per Ex. P-2, the appellant/plaintiff was recognised as a tenant in possession of the land owned by Biso and Jawali. On an application filed for his ejectment, the competent authority ordered ejectment of the appellant/plaintiff

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from 5 standard acres, subject to the condition that alternative land from the surplus area be provided to him. The order was a conditional order, whereby the Circle Revenue Officer was required to resettle the appellant/plaintiff on surplus land in the same village or in a nearby village to the extent of 5 standard acres, and only thereafter the appellant/plaintiff was to hand over possession of the land cultivated by him to Jawali and Biso for self-cultivation.

9. This order was never implemented. It is not the case of the appellant/plaintiff that he handed over possession on the basis of order Ex. P-2 to Biso and Jawali. It is the specific case of the appellant/plaintiff that the suit land in his possession was subsequently acquired for the Ropar Thermal Plant under the provisions of the Land Acquisition Act, 1894 (hereinafter referred to as “the Act of 1894”). In these circumstances, the possession of the land was taken under the provisions of the Act of 1894, which is a distinct enactment and gave rise to a separate and independent cause of action to the appellant/plaintiff to seek compensation for the acquired land, which was earlier in his possession as a tenant.

10. On this ground, it is contended that since the possession of the land was taken over by the Punjab Government under the Act of 1894, the appellant/plaintiff could not be allotted alternative land in terms of order Ex. P-2, as the said order remained unexecuted. No possession was taken from the appellant/plaintiff in enforcement of that order. Order Ex. P-2 could have been implemented only after allotment of alternative land equivalent to 5 standard acres, which admittedly was never done. Consequently, the order remained unimplemented, and possession of the land was never delivered to the landowners, Jawali and Biso, pursuant to that order.

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11. Subsequently, in the year 1993, an order of allotment was passed in favour of the appellant/plaintiff; however, the said allotment was later cancelled. The appellant/plaintiff never challenged the cancellation order before the competent authority.

12. In these circumstances, the appellant/plaintiff was rightly held to be not entitled to the relief of mandatory injunction as prayed for, since he cannot seek enforcement of order Ex. P-2, which could have been enforced only by the landowners, Jawali and Biso, and that too only upon allotment of alternative land equal to 5 standard acres to the appellant/plaintiff—an allotment which was never made by the State Government. Consequently, order Ex. P-2 remained unexecuted.

13. Furthermore, with the subsequent change in circumstances, the land was acquired by the State Government under the provisions of the Land Acquisition Act, 1894, and possession was taken over accordingly. In view thereof, no illegality or infirmity can be found in the findings recorded by the Courts below, and the same do not call for any interference by this Court.

14. Accordingly, the appeal stands dismissed.

(VIRINDER AGGARWAL)
JUDGE

16.02.2026

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Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*