

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

RSA-1694-2025 (O&M)**Ashok Kumar**

. . . . Appellant

Vs.

Chand Singh

. . . . Respondent

Reserved on: 21.04.2026**Pronounced on: 22.04.2026****Pronounced Fully/Operative Part: Fully**

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr.N.K. Malhotra, Advocate, for the appellant.

DEEPAK GUPTA, J.

The present Regular Second Appeal has been preferred by the plaintiff–appellant assailing the judgment & decree dated 19.02.2025 passed by the learned Additional District Judge, Rewari, whereby the appeal filed by the plaintiff was dismissed and the judgment & decree dated 12.09.2018 passed by the learned Civil Judge (Junior Division), Rewari, dismissing the suit for permanent and mandatory injunction, was affirmed.

2. The plaintiff had instituted a suit seeking a decree for permanent injunction restraining the defendant from interfering in his alleged possession over plot No. 12 measuring 100 square yards, comprised in Khasra No. 11/17 and 18, situated in Village Biharipur, Tehsil and District Rewari. A consequential relief of mandatory injunction was also prayed for in the event of dispossession. The foundation of the claim was that the said plot had been allotted to the plaintiff by the Gram Panchayat and that he had raised construction thereupon and was in settled possession thereof.

3. The defendant, while not disputing the allotment of plot No. 12 in favour of the plaintiff, contested the suit primarily on the ground that the plaintiff

had incorrectly identified the location of the plot and was, in fact, attempting to encroach upon another plot. It was asserted that as per the correct site plan and actual demarcation, plot No. 12 was situated in the first row, whereas the plaintiff was claiming a corner plot in the second row.

4. On the basis of the pleadings, the parties went to trial. The learned trial Court, upon appreciation of the evidence led by both sides, dismissed the suit. The appeal preferred by the plaintiff met the same fate, with the learned First Appellate Court affirming the findings of the trial Court.

5. Heard the learned counsel for the appellant and perused the record.

6. At the outset, it requires to be noticed that both the Courts below have returned concurrent findings of fact against the plaintiff. The scope of interference in a second appeal under Section 100 of the Code of Civil Procedure is limited to substantial questions of law. This Court does not sit as a Court of further appeal on facts, and reappreciation of evidence is impermissible unless the findings are shown to be perverse or based on misreading of material evidence.

7. From a perusal of the record, it emerges that the controversy between the parties is not with regard to the allotment of plot No. 12, which stands admitted, but rather pertains to the identification and location of the said plot. The plaintiff has sought to rely upon a site plan dated 17.01.2012 (Ex. PW1/B) to substantiate his claim regarding the location, whereas the defendant has relied upon site plan Ex. D3.

8. Both the Courts below have, on a detailed appreciation of evidence, found that the site plan as relied upon by the plaintiff is not a reliable document for determining the location of the plot. It has been noticed that the said site plan depicts plot numbers in a continuous sequence, which is contrary to the admitted position on record that out of 28 initial allottees, seven were found ineligible and no plots bearing those numbers were ever allotted. Further, the author of the said site plan himself admitted that it had been prepared for the limited purpose of estimation for construction of a 'gali' and not for demarcation of plots.

9. In contrast, the site plan relied upon by the defendant has been found to be in consonance with the allotment record as well as the actual position on the

spot after exclusion of ineligible allottees. The Courts below have, thus, concurrently held that the plaintiff has failed to establish that the location of plot No. 12 is as claimed by him.

10. Equally significant is the finding regarding possession. The grant of injunction is premised upon lawful or settled possession. In the present case, the plaintiff, in his own testimony, admitted that the construction raised by him had been removed by the administration. In such circumstances, the plea of settled possession becomes untenable. The contention raised on behalf of the appellant that possession stood admitted by the defendant has also been rightly rejected, as the testimony of a witness cannot be read in isolation and must be considered as a whole.

11. The judgments relied upon by the learned counsel for the appellant pertain to settled propositions of law regarding protection of possession. However, those principles are of no assistance in the facts of the present case where the very identity and location of the property, as claimed, has not been proved and possession itself is not established.

12. The contention raised by learned counsel for the appellant that no specific issue regarding the location of the plot was framed by the trial Court and, therefore, the matter deserves to be remanded, is found to be devoid of any merit.

13. A perusal of the pleadings of the parties clearly reveals that the core dispute between them was with respect to the identification and location of plot No. 12. Both sides were fully aware of each other's case and had gone to trial with complete knowledge of the controversy involved. The parties, in fact, led extensive oral as well as documentary evidence specifically addressing the said aspect, and the Courts below have adjudicated the matter on that very issue.

14. It is a settled principle of law that mere non-framing or improper framing of an issue is not fatal to the case unless it is shown that the same has caused prejudice to a party or has resulted in failure of justice. Where the parties have gone to trial fully conscious of the real controversy and have adduced evidence in support of their respective stands, the absence of a specific issue pales into insignificance.

15. In the present case, no such prejudice has been demonstrated by the appellant. Rather, the record reflects that the parties have understood the controversy in its correct perspective and have contested the matter on merits. Thus, the argument that the matter requires remand on account of non-framing of a specific issue is misconceived and is accordingly rejected.

16. The findings recorded by the learned Courts below are based on proper appreciation of oral and documentary evidence and do not suffer from any perversity, illegality or material irregularity. No substantial question of law arises for consideration in the present appeal.

17. Consequently, finding no merit in the present Regular Second Appeal, the same is hereby dismissed. Pending applications, if any, also stand disposed of.

(DEEPAK GUPTA)
JUDGE

22.04.2026

Vivek

<i>Whether Speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>

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