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

RSA-4926-2019 (O&M)

Date of Decision : 14.01.2026

INDERJIT SINGH (SINCE DECEASED) THR LRS Appellants

VERSUS

KHUSHWANT RAI @ SHINDA GROVER Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. K.S. Lakhanpal, Advocate for
Mr. Arunjeet Singh Kakkar, Advocate for the appellants.

ALKA SARIN, J. (ORAL)

1. The present regular second appeal has been filed by the plaintiff-appellants challenging the judgment and decree dated 20.02.2018 passed by the learned Trial Court and the judgment and decree dated 14.05.2019 passed by the learned First Appellate Court.

2. Briefly, the facts relevant to the present *lis* are that the plaintiff-appellants herein filed a suit for permanent injunction for restraining the defendants therein (respondent herein and one Subhash Kumar-defendant No.2) from interfering in the peaceful possession of the plaintiff-appellants over the shop measuring 20' x 22'6" as fully described in the plaint. Counterclaim was filed by defendant No.1 (respondent herein) also claiming permanent injunction for restraining the plaintiff-appellants from interfering in his peaceful possession of the same shop on the ground that he was in possession of the shop. The case set up by the plaintiff-appellants was that

originally the Municipal Council, Faridkot was the owner of the shop and that the plaintiff-appellants were tenants of the Municipal Council, Faridkot for the last 70 years. It was further the case set up that the father of the plaintiff-appellants was a tenant and in possession of the shop in question. The plaintiff-appellants had regularly been paying the rent/*teh bazari* to the Municipal Council, Faridkot till date. It was further the case that the plaintiff-appellants had no dispute with the Municipal Council, Faridkot and that the defendants have no concern with the disputed shop. However, the defendants want to dispossess the plaintiff-appellants from the shop in dispute. Hence the suit by the plaintiff-appellants for restraining the defendants from interfering in their possession.

3. On notice, defendant No.1 (respondent herein) appeared through counsel and filed his written statement raising various preliminary objections including that the plaintiff-appellants have not approached the Court with clean hands. It was the case set up that defendant No.1 (respondent herein) and the plaintiff-appellants were running the shop jointly and that the shop was taken on rent in the name of the plaintiff-appellants. On 02.05.2011 they separated their business and the plaintiff-appellants left the shop and defendant No.1 (respondent herein) remained in possession of the shop alone. It was further the case that the plaintiff-appellants had sworn an affidavit dated 02.05.2011 and also moved an application to the Executive Officer, Municipal Council, Faridkot for changing the tenancy in the name of defendant No.1 (respondent herein). It was further the stand that defendant No.2 had no concern with the shop in dispute and that he had been impleaded

unnecessarily. On merits it was admitted that the shop was in the ownership of the Municipal Council, Faridkot which was on rent in the name of the plaintiff-appellants. The facts as narrated in the preliminary objections were reiterated. It was further the case set up in the counterclaim that the plaintiff-appellants forcibly want to dispossess defendant No.1 (respondent herein) under the garb of the present suit. Written statement was filed to the counterclaim of defendant No.1 (respondent herein).

4. Replication was filed. On the basis of the pleadings of the parties, the following issues were framed :

3. Whether plaintiff is entitled for permanent injunction, as prayed for? OPP

4. Whether plaintiff has not come to the Court with clean hands and concealed the material facts? OPP

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

5-A. Whether counter claimant is entitled to decree of permanent injunction, as prayed for? OPCC

6. Relief.

5. The Trial Court vide judgment and decree dated 20.02.2018 dismissed the suit of the plaintiff-appellants and decreed the counterclaim of defendant No.1 (respondent herein) for permanent injunction restraining the plaintiff-appellants from interfering and dispossessing defendant No.1 (respondent herein) from the shop in dispute illegally and forcibly except in due course of law. Aggrieved by the same, two appeals were preferred by the

plaintiff-appellants challenging the dismissal of the suit and the decreeing of the counterclaim. Both the said appeals were dismissed by the learned First Appellate Court vide judgment and decree dated 14.05.2019. The present regular second appeal has been filed by the plaintiff-appellants, as per the opening sheet, only against the dismissal of their suit. No appeal has been preferred challenging the counterclaim being decreed.

6. Learned counsel for the plaintiff-appellants, on a query put by the Court as to whether any appeal had been preferred challenging the judgment and decree allowing the counterclaim, has candidly admitted that the present appeal has been filed only challenging the dismissal of the suit of the plaintiff-appellants and there is no challenge to the decree passed allowing the counterclaim.

7. Learned counsel for the plaintiff-appellants would contend that the plaintiff-appellants have been in possession of the shop and they had regularly been paying the rent and therefore their possession was duly proved. It is further contended that both the Courts have erred in dismissing the suit of the plaintiff-appellants.

8. Heard.

9. In the present case a suit was filed by the plaintiff-appellants and a counterclaim was filed by defendant No.1 (respondent herein), both for permanent injunction. Plaintiff-appellants had filed the suit for permanent injunction claiming themselves to be in possession and from restraining the defendants from dispossessing the plaintiff-appellants from the shop in dispute. Defendant No.1 (respondent herein) had filed the counterclaim

claiming that he was in possession of the shop in dispute and for restraining the plaintiff-appellants from dispossessing defendant No.1 (respondent herein). Admittedly, the counterclaim was decreed and the appeal challenging the same was dismissed. Since no appeal has been preferred before this Court challenging the judgment and decree to the extent the counterclaim was decreed, the plaintiff-appellants possibly cannot succeed in the present appeal as he has accepted the fate of the decree passed qua the counterclaim. Further still, both the Courts have concurrently found that the plaintiff-appellants were not in possession of the shop in dispute. Father of the plaintiff-appellants had given an affidavit (Ex.D1) dated 02.05.2011 stating therein that the shop in dispute had come to the share of Khushwant Rai [defendant No.1 (respondent herein)]. He had also moved an application before the Executive Officer, Municipal Council, Faridkot regarding the transfer of tenancy in the name of Khushwant Rai [defendant No.1 (respondent herein)]. The defendant No.1 (respondent herein) had proved on record the signatures of Inderjit Singh (father of the plaintiff-appellants) on Ex.DW5/C which was the application moved before the Executive Officer, Municipal Council, Faridkot. The defendant No.1 (respondent herein) also examined DW2 Anil Kumar Gupta who proved on the record that the affidavit (Ex.D1) bears the signatures of Inderjit Singh (father of the plaintiff-appellants). There was no explanation forthcoming as to why the affidavit was given and as to why the application was filed before the Executive Officer, Municipal Council, Faridkot for transfer of the tenancy in the name of defendant No.1 (respondent herein). Even before this Court, learned counsel for the plaintiff-appellants has been

unable to show the possession of the plaintiff-appellants over the shop in dispute.

10. In view of the above, I do not find any merits in the present appeal. No question of law, much less any substantial question of law, arises in the present case. The appeal, being devoid of any merits, is accordingly dismissed. Pending applications, if any, also stand disposed off.

14.01.2026
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No