

2026:PHHC:052564



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

RSA-4722-2009 (O&M)

Reserved on: February 18, 2026

Date of Pronouncement: April 07, 2026

Uploaded on: April 07, 2026

Oriental Bank of Commerce

...Appellant

VERSUS

Raj Rani and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.N.C.Sahni, Advocate
(through video conferencing) for the appellant with
Ms.Anjali Singh, Law Officer, Punjab National Bank.

Mr.Arvind Mittal, Mr.Sarvjeet Singh Thakur and
Mr.Jaivir Singh, Advocates for the respondents.

ARCHANA PURI, J.

This is regular second appeal filed by the appellant (defendant before trial Court) to assail the decree for possession regarding premises in question and also decree for recovery of Rs.1,55,000/- passed by the trial Court, which stood affirmed by the First Appellate Court vide judgment dated 20.04.2007.

For the convenience of discussion, the parties are referred to as making appearance before learned trial Court.

The essential facts, to be noticed, are as follows:-

That, initially plaintiff Ram Lubhaya (since deceased) filed suit for

**RSA-4722-2009****-2-**

possession of the premises in dispute, as detailed in the headnote of the plaint and also sought recovery of Rs.2,01,250/-, as arrears of rent. It is the claim of the plaintiff (since deceased) that he leased out the premises in dispute to the defendant vide leased deed dated 24.02.1995. The defendant was liable to pay electricity charges, as per the consumption. The rate of rent was agreed to be Rs.5,000/- per month. The lease deed was initially for a period of 5 years, commencing from 01.08.1993 and thereafter, be renewable for a period of 15 years, comprising of three terms of 5 years' each, with 15% increase in the agreed monthly rent, on the same terms. The defendant had not made the payment of rent to the plaintiff w.e.f 01.0.1998 and thus, the defendant became liable to pay rent at the rate of Rs.5750/- per month w.e.f. 01.08.1998.

The plaintiff further alleged that he had served notice dated 14.05.2001 under Section 106 of the Transfer of Property Act, terminating the tenancy of the defendant and calling upon to vacate the premises in dispute, but to no effect. He alleged that he is entitled to recover an amount of Rs.2,01,250/- for the period from 01.08.1998 to June 2001 and also entitled to seek possession of the premises in question.

In the written statement, the defendant admitted about the inception of tenancy and that the lease deed dated 24.02.1995 was executed between the parties. The lease period had started from 01.08.1993 and the rate of rent was Rs.5000/- per month. However, the defendant had pleaded that as per clause-16 of the lease deed, the bank was having a right to vacate the premises by serving notice of three months. As per clause-11 of the lease deed, strong room door to be affixed to the strong room is the property of the bank and the bank was having right to remove the said door, at the

**RSA-4722-2009****-3-**

time of vacating the premises in dispute. The bank was also having right to remove other furniture, fixtures and fittings. Notice dated 01.12.1998 was served by the bank on the plaintiff, vis-a-vis, termination of tenancy as per clause-16 of the lease deed and the plaintiff was requested to accept three months' rent, in lieu of the notice and to allow the bank to remove the door of the strong room and other equipments, furniture, fittings, fixtures etc. However, the plaintiff had send reply dated 08.12.1998 and he did not allow the defendant to remove the door of the strong room and other furniture, fixtures etc.

It was further alleged that now the plaintiff cannot claim any rent from the defendant, as the tenancy had been terminated by the bank on 01.12.1998. It was alleged by the defendant that they had already shifted its branch to alternative premises, situated on the main road Lambra, as the premises belonging to the plaintiff was not suitable to the bank.

Further also, it was asserted that lease period could be extended by execution of the fresh lease deed and the said matter was within the discretion of the bank, but no fresh lease deed was executed between the parties. Furthermore, it was pleaded that tenancy was terminated by the bank, much prior to the service of notice by the plaintiff. The bank had always remained ready and willing to pay the rent of three months, but the plaintiff did not allow the bank to remove the door of the strong room and other fixtures and fittings.

Replication was filed. On completion of pleadings, following issues were framed:-

“1. Whether the defendants are liable to be ejected on the ground of non-payment of rent? OPP



2. *Whether the defendants have violated the terms and conditions of the clause 4 of the lease deed? OPP*
3. *Whether the legal notice under Section 106 of the Transfer of Property Act had been served on the defendants on 14.5.2001? OPP*
4. *Whether the suit is not maintainable? OPD*
5. *Whether the defendants have served a registered notice dated 1.12.1998 regarding termination of tenancy as per clause 16 of the lease deed dated 24.2.1995. If so its effect? OPD*
6. *Whether the plaintiff is not entitled to seek the recovery of arrears of rent through this suit? OPD*
7. *Whether the suit is not properly valued for the purpose of court fee and jurisdiction? OPD*
8. *Whether no cause of action has arisen to the plaintiff to file the present suit? OPD*
9. *Relief."*

To substantiate his claim, the plaintiff, during his lifetime, had stepped into witness box as PW-1 and proved documents Ex.P1 to Ex.P6.

To rebut the claim of the plaintiff, the defendant examined as many as 3 witnesses i.e. DW-1 Sh.R.B.Jain, Branch Manager, Oriental Bank of Commerce, New Railway Road, Jalandhar, DW-2 Sh.Mulakh Raj, Branch Manager, Oriental Bank of Commerce, Shahkot and DW-3 Sh.Khandesh Chopra, Head Cashier, Oriental Bank of Commerce, Branch Lambra and documents Ex.DX, DY, DZ and D1 were proved in evidence.

On appraisal of the evidence brought on record, learned trial Court observed that the inception of tenancy, as such, is not disputed. Even, the execution of the lease deed dated 24.02.1995, copy whereof is Ex.P2 is also not in dispute, but however, it was observed that the defendant, after the expiry of initial period of five years, continued to be in possession of the

**RSA-4722-2009****-5-**

premises in question. Also, it was observed that even though, notice dated 14.05.2001 Ex.P3 was served, but however, no reply, as such, was filed by the bank. While appraising the testimonies of witnesses examined by the defendant-bank, learned trial Court concluded about there to be continuation of possession of the premises, even after the alleged termination notice dated 01.12.1998 Ex.D1. The defendant-bank continued to remain silent and possession of the premises was never delivered by the bank to the plaintiff. Even though, reply to the notice was filed on 08.12.1998, copy whereof is Ex.D2, thereby requesting that the bank should not vacate the premises, rather the notice should be withdrawn. However, the bank did not take any further steps and there is nothing to show that the possession of the premises in question was delivered to the plaintiff.

In the light of the same, learned trial Court passed decree for possession and also passed a decree for recovery of Rs.1,55,000/-.

Being aggrieved, the bank filed an appeal and the same was dismissed vide judgment dated 20.04.2007.

Still not satisfied, the bank had filed the regular second appeal.

Counsel for the parties heard.

So far as, the tenancy is concerned, the same, as such, is not disputed. The execution of the lease deed dated 24.02.1995 Ex.P2 is also not disputed. The terms settled therein, are also, more or less, not disputed. It is not disputed that the rent settled was Rs.5,000/- per month, payable by 7th of every month. There is also no dispute that the lease was initially for a period of five years, with a clause of renewable for a period of 15 years, comprising of three terms of five years period with 15% increase in the agreed monthly rent.



As per clause-11 of the lease deed, the strong room door was to fixed or affixed to the strong room vault, shall be the property of the bank and the bank in the event of vacating the leased premises, shall have a right to remove the same and other equipments, fixtures, fittings put up by the bank for the banking business. Clause-16 also gave an option to the lessor to get the premises vacated before the expiry of the term and similarly, the bank also reserve to itself the right to vacate the demised premises by serving three months' notice to either side.

It is claim of the defendant that the initial period of five years' tenancy was w.e.f. 01.08.1993, meaning thereby, the first period of tenancy, as such, was to lapse on 31.07.1998. That period had gone by. It is the specific claim of the defendant that notice regarding termination of lease in respect of the demised premises, was issued to plaintiff-Ram Lubhaya on 01.12.1998, copy whereof is Ex.D1. Therein, it was stated that the bank does not require the premises and terminates the lease deed with immediate effect and further request was made to the plaintiff to collect three months' rent, in lieu of three months' notice and allow the bank to remove the strong room door and other fittings and furniture and also the plaintiff was requested to accept the draft for the arrears of rent along with three months advance rent personally and arrange to allow the officials of the bank to remove the strong room door, furniture and fixtures, put up by the bank to deliver the vacant possession of the premises.

Also, it is not disputed that reply to the notice was also filed by the plaintiff, copy whereof is Ex.D2, but it is the claim of the plaintiff that the tenancy continued and the rent was paid further and the possession, as such, had not been delivered to him. In fact, notice with regard to the termination

**RSA-4722-2009****-7-**

of the tenancy was issued by the plaintiff to the defendant on 14.05.2001, copy whereof is Ex.P3. However, reply to the same was not filed by the bank.

In this context, before adverting to the observations made by the Courts below, vis-a-vis, testimonies of the witnesses examined by both the sides, it is pertinent to mention that it is settled position of law that the High Court cannot interfere with the findings of fact, arrived at by the Courts below, which are the final Court of facts, except in such cases, where such findings are erroneous, being contrary to the mandatory provisions of law, or its settled position, on the basis of the pronouncements made by the Apex Court or based upon inadmissible evidence or without evidence. In fact, the High Court cannot substitute its opinion, for the opinion of the First Appellate Court, unless it is found that the conclusions drawn by the lower Appellate Court, are erroneous, being contrary to the mandatory provisions of law applicable or its settled position, on the basis of pronouncements of the Apex Court, or was based upon inadmissible evidence or arrived at without evidence. The High Court in the second appeal can interfere with the findings of the trial Court, on the ground of failure on the part of the trial Court as well as the first Appellate Court, when the evidence brought on record is misread and misinterpreted or there is failure to follow the decisions of the Court and also acted on assumption, not supported by an evidence.

Taking into consideration the aforesaid, it is significant to note that the testimonies of three witnesses examined by the defendant-bank, have been discussed threadbare by two Courts. DW-1 R.B.Jain, Manager of Oriental Bank of Commerce, who remained posted in the bank in question,

**RSA-4722-2009****-8-**

in his affidavit, had deposed in consonance with the pleaded case of the defendant, but however, his cross-examination has been appropriately considered by the Courts below. The said witness while facing cross-examination, had stated that the first period of lease terminated on 31.07.1998. He also deposed that he had no knowledge, whether the bank is in possession of the property in dispute, after 01.08.1998 till today, as he was transferred from the bank in the year 1997. He also stated that he has no knowledge, whether the bank has renewed the lease deed after 31.07.1998 or not. He also has no knowledge, whether the bank has deposited the rent at the increased rent after 01.08.1998. He also stated that he has no knowledge, whether the bank has any goods or any moveable belonging to the bank in the property in question. Further, he has no knowledge, whether the bank had paid what rate of rent after 01.08.1998 and to what date.

The testimony of DW-2 Mulakh Raj, Branch Manager, Shahkot, examined by the defendant, is also essential to note. In his affidavit Ex.DB, this witness had stated that the bank had already vacated the premises owned by the plaintiff, well before the expiry of initial period. The bank served notice dated 01.12.1998, regarding termination of the tenancy, requesting the plaintiff to accept three months' rent, as per clause-16 and to allow the bank to remove the strong room door and other equipments. However, this witness in cross-examination had stated that the bank had paid the rent to the plaintiff upto November 1998, at the rate of Rs.5,000/- per month. They had produced the record in the Court. He also admitted to be correct that a legal notice Ex.P3 was received by the bank. He has no knowledge, whether the bank replied to the legal notice or not. He also deposed that he was transferred from the defendant-bank on 22.05.1999. **He also admitted to be**



RSA-4722-2009

-9-

correct that upto 22.05.1999, the property in dispute is in possession of the bank and the bank put its lock on the property in dispute.

Furthermore, DW-3 Khandesh Chopra, Head Cashier of Oriental Bank of Commerce, Branch Lambra, in his affidavit Ex.P3/A stated that bank had vacated the disputed premises on 20.01.1998 and shifted the business operations in the building situated at Main Road, Lambra. He also stated therein that Ram Lubhaya did not allow the bank to take away its strong room and some fixtures and furniture and forcibly locked the premises. **He also stated that the bank is functioning in the premises situated at Main Road, Lambra since 20.01.1998.** This witness, while facing cross-examination had stated that the bank had paid the rent to the plaintiff upto November 1998, at the rate of Rs.5,000/-. He also admitted to be correct that the period of five years completed on 31.07.1998. He further admitted a suggestion to be correct that even after completion of initial five years of lease period, the bank paid Rs.5,000/- per month, to the plaintiff, upto November 1998 and fresh lease deed was not executed.

Considering the testimonies of all the three witnesses in unison, learned trial Court has very well appraised the cross-examination, more particularly, the testimony of DW-2 Mulakh Raj and had appropriately concluded about the bank, having continued to occupy the premises in question, even after the expiry of initial five years period. Furthermore, it has also been appropriately considered about DW-3 Khandesh Chopra, to have deposed contrary to the plea raised by the bank, with regard to the premises, having vacated on 20.01.1998, which as such, is never the version, put forth by the bank and is contrary to the testimony of other witnesses also.



In this context, also it is pertinent to mention that even after issuance of notice on 01.12.1998 and the reply having filed by the plaintiff, copy whereof is Ex.D2, the defendant remained absolutely silent. Though, no fresh lease deed has been executed, but the defendant continued to remain in possession of the suit property. There was long silence on the part of the defendant bank.

It is pertinent to mention that nowhere in the written statement, a specific and categorical stand has been taken by the defendant-bank, as to when the possession of the property was handed over to the plaintiff. Further, it is admitted case that the door of the strong room was the property of the bank and the same was never collected from the demised premises. In the light of the same, it is also important to make reference to the order passed by this Court on 12.10.2012. During the pendency of the RSA, CM-6759-C-2011 was filed by the plaintiff-respondent, thereby, seeking mesne profits. The said application was disposed of by this Court vide order dated 12.10.2012. Therein, it was observed that the defendant, as such, had contested the claim of the plaintiff, as they had already vacated the premises and they had not put any lock to the premises.

However, relating to the same, no observation, as such, came forth, as to when, it was so vacated. In fact, it was observed by this Court as follows:-

“It is an admitted fact that the strong room of the defendant erected by them is still in the premises of the plaintiff. Now the defendants would submit that they are prepared to take away their strong room from the premises of the plaintiff.

Without going into the controversial issued between the parties, both the parties are given liberty to access to the premises in question by breaking open the lock and the



defendants are given liberty to take away the strong room within the premises of the plaintiff and thereafter the plaintiff is given liberty to put lock of his own.

The application is ordered accordingly.”

This order, undisputedly, had not been challenged by either side till date. No doubt, no order with regard to the mesne profits, as such, was passed by the Court, but however, it has been, in the opening lines, observed that they agree for taking the possession of the premises or for payment of rent at the market rate. Furthermore, therein, an observation was made about the strong room of the defendant erected, to be still in the premises of the plaintiff and the defendant submitted that they are prepared to take away the strong room from the premises of the plaintiff.

From the tone and tenor the observations, so made by this Court, it is evident that the strong room door, which was right of the defendant bank to take away, as such, was still lying in the premises in question and the order, with regard to having access to the premises in question, by breaking open the lock, was passed by this Court. Liberty was given to the defendant to take away the strong room door, within the premises of the plaintiff and the plaintiff, thereafter, was given the liberty to put lock of his own. It shows that the property of the defendant, as such, still continued to be there in the demised premises.

Not only this, even before the First Appellate Court, Local Commissioner was appointed, but at the time of visit of Local Commissioner, none had appeared on behalf of the defendant-bank. Even, Jatinder Bagga, one of the LRs of Ram Lubhaya also expressed his inability to supply the key for opening the lock. In this context also, it was observed

**RSA-4722-2009****-12-**

that in the express and implied manner, the possession is of the bank, over the property in dispute. It has been so rightly concluded, which further stood fortified by the order dated 12.10.2012 passed by this Court, which has not been further challenged by the defendant-bank, more particularly, when no specific date, as to when the possession was handed over to the plaintiff, is coming on record.

Not only this, even, in the notice sent by the bank, there is mention made of the payment of rent, by way of draft, for the arrears of rent along with three months' advance, but however, nothing as such, is coming on record, with regard to the draft having been so prepared, to be handed over to the plaintiff, as asserted in the notice.

Taking into consideration the testimonies of the witnesses of the defendant, more particularly, DW-2 Mulakh Raj and also considering the other material brought on record, as detailed aforesaid, it is evident that the possession continued with the defendant-bank and that being so, learned trial Court has correctly decreed the suit of the plaintiff and decree, as such, has been rightly affirmed by learned First Appellate Court.

In any manner, it cannot be held that it was on assumption, not supported by evidence, that the observations have been made by the Courts below. In fact, there is no misreading or misinterpretation of the evidence, brought on record.

Hence, the appeal sans merit and the same is hereby dismissed.

April 07, 2026
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No