

2026:PHHC:035716



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

RSA-4416-2013 (O&M)
Date of decision: 05.03.2026

Municipal Corporation, Faridabad

....Appellant

V/s

Liyakat Ali (since deceased) through LRs and another

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Ms. Balwinder Kaur, Advocate, for the appellant.

Mr. Surinder Singh, Advocate, for respondent No.1.

VIKRAM AGGARWAL, J. (ORAL)

Defendant No.1 (Municipal Corporation, Faridabad),
is in appeal against the judgment and decree dated 16.02.2013
passed by the Court of Additional District Judge, Faridabad,
dismissing the appeal against the judgment and decree dated
08.12.2011 passed by the Court of Civil Judge (Sr. Division),
Faridabad, vide which the suit of the plaintiff for permanent
injunction, was decreed and the defendants were restrained
from interfering in the peaceful possession of the plaintiff over
plot No. 64 or demolishing any portion of the construction raised
by him over the said plot.

2. For the sake of convenience and clarity, parties shall
be referred to as per their original status.

3. The plaintiff (Liyakat Ali) filed a suit for permanent injunction claiming that he was owner in possession of plot No. 64 (fully described in the plaint) situated at village Gonchhi, Tehsil Ballabgarh, District Faridabad (hereinafter referred to as 'the suit property'). It was averred that the suit property was allotted by defendant No.2 (Rehabilitation Department, Faridabad), to the grandfather of the plaintiff, who had executed a Will dated 29.05.1978 in favour of the plaintiff and since then, the plaintiff had been in possession of the suit property. The plaintiff had raised a boundary wall upon the suit property and was using the same for storing fodder for cattle. It was asserted that on 14.06.2004, employees of defendant No.1 visited the suit property and threatened to demolish the boundary wall without giving any notice and that the requests of the plaintiff not to demolish the boundary wall, yielded no result.

4. Defendant No.1 contested the suit by filing a written statement taking preliminary objections regarding *locus-standi* and estoppel. On merits, it was asserted that defendant No.1 was the owner of Khasra No. 148 situated in the revenue estate of Village Gonchhi and the plaintiff had no right, title or interest over it. It was further asserted that the plaintiff had encroached upon the land measuring 64' x 42' of defendant No.1. The claim of the plaintiff as regards the suit property having been allotted to his grandfather by defendant No.2, was termed to be a concocted one.

5. Defendant No.2 was proceeded against ex-parte vide order dated 09.07.2004.

6. From the pleadings of the parties, the following issues were framed by the trial Court:

- “1. Whether the plaintiff deserves for the relief of injunction, as prayed for? OPP**
- 2. Whether the plaintiff has no locus standi to file the present suit? OPD**
- 3. Whether the suit is not maintainable in the present form? OPP**
- 4. Whether the plaintiff has no cause of action to file the present suit? OPD**
- 5. Whether the plaintiff is estopped from filing the present suit due to his own act and conduct? OPD**
- 6. Relief.”**

7. Parties led their respective evidence.

8. The trial Court, vide judgment and decree dated 08.12.2011, decreed the suit. The appeal preferred against the said decision was also dismissed by the Court of Additional District Judge, Faridabad, vide judgment and decree dated 16.02.2013, leading to the filing of the instant appeal.

9. I have heard learned counsel for the appellant.

10. Learned counsel for the appellant submits that both Courts gravely erred in decreeing the suit of the plaintiff. It is further argued that the appellant had, by leading cogent and convincing evidence on record, proved that the plaintiff had encroached upon the land belonging to the appellant. It is further argued that once it was found by both Courts that the plaintiff had not been able to prove the Will propounded by him, there was no occasion for both Courts to protect his possession

over the suit property. It is also argued that both Courts wrongly relied upon the report of the Local Commissioner to hold that the plaintiff was in possession of the suit property and that he had not made any encroachment upon the land belonging to the appellant.

11. *Per contra*, learned counsel representing plaintiff-respondent No.1, submits that both Courts recorded a concurrent finding of fact that the plaintiff had not encroached upon any part of the land belonging to the appellant and, therefore, the appellant had got no right to demolish the construction of the plaintiff raised over the suit property. It is also argued that the findings recorded by both Courts are based on the evidence on record and no interference is called for in the present appeal.

12. I have considered the submissions of learned counsel for the parties.

13. Both Courts found that the plaintiff had failed to prove on record that the suit property had been allotted to his grandfather and so was the factum of the Will propounded by him. However, on the basis of the report (Exhibit PW2/A) of the Local Commissioner, it was found that the plaintiff had not encroached upon any part of the land belonging to defendant No.1. It was further found that the report of the Local Commissioner had never been challenged and, therefore, there was no reason to disbelieve the same, especially when the same had been prepared in the presence of the representatives of the parties. It was also found that the defendants had not claimed

any title over the suit property and rather, they had claimed ownership in respect of Khasra No.148.

14. No doubt, the plaintiff was not able to prove the Will propounded by him, but on the basis of evidence on record, it was proved that he was in possession of the suit property and that he had not encroached upon the property of the defendants.

15. Both Courts recorded concurrent findings of facts on the basis of evidence on record. Such findings cannot be said to be suffering from any patent illegality or infirmity, which may warrant interference by this Court in the present Regular Second Appeal.

16. In view of the above, finding no merit in the present appeal, the same is hereby dismissed.

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

(VIKRAM AGGARWAL)
JUDGE

05.03.2026

ds

Whether speaking/reasoned :

Yes/No

Whether reportable :

Yes/No