

2026:PHHC:076088



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

RSA-2413-2023 (O&M)  
Date of Decision: 12.05.2026

Suresh Kumar

...Appellant

Versus

District Industrial Centre and Another

...Respondents

**CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Present: Mr. Kamal Narula, Advocate, for the appellant.

**VIKRAM AGGARWAL, J (Oral)**

This is plaintiff's appeal against the judgment and decree dated 01.08.2022, passed by the Court of Additional District Judge, Ferozepur, dismissing the appeal against the judgment and decree dated 27.02.2020 passed by the Court of Additional Civil Judge (Senior Division), Ferozepur, vide which the suit filed by the plaintiff was dismissed.

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

3. The plaintiff filed a suit for permanent injunction restraining defendant No.1 from interfering with the peaceful and lawful possession of the plaintiff over an iron Kiosk, installed on the land (fully described in the plaint) situated at Malwal Road, Industrial Area, Ferozepur City (hereinafter

referred to as 'the suit land'). It was further prayed that till the title over the suit land was proved between the defendants, defendant No.1 be restrained from removing the said Kiosk, forcibly and illegally, except in due course of law.

3.1 It was claimed that the plaintiff had applied for installation of the said Kiosk over the suit land belonging to defendant No.2 and that permission in this regard was granted by defendant No.2. After installation of the said Kiosk, the plaintiff had been depositing rent @ Rs.500/- per month with defendant No.2 and receipts in this regard were also issued by the said defendant. The plaintiff had also obtained an electric connection for the said Kiosk from the Punjab State Power Corporation Ltd. (PSPCL). It was further the case of the plaintiff that one Sukhchain Singh, in connivance with defendant No.2, tried to disturb the possession of the plaintiff and even the officials of defendant No.2 had also tried to demolish the aforesaid Kiosk.

3.2 It was further claimed by the plaintiff that he had filed a civil suit for permanent injunction, which was dismissed by the Court of Civil Judge (Junior Division), Ferozepur on 26.03.2018, but an appeal against the said decision was pending. It was further averred that on 16.08.2018, defendant No.1 had issued a notice calling upon the plaintiff to remove the said Kiosk on the ground that the same had been installed on the suit property owned by defendant No.1. The plaintiff filed reply to the said notice. It was further claimed that both defendants were claiming ownership over the suit land.

4. The defendants contested the suit. In the written statement filed by defendant No.1, certain preliminary objections regarding maintainability, cause of action, the plaintiff having concealed material facts from the Court and non issuance of a notice under Section 80 of the Code of Civil Procedure, were taken. The suit was also termed to be barred by the principle of resjudicata.

4.1 On merits, it was asserted that the plaintiff had encroached upon the Government land belonging to defendant No.1 and when defendant No.1 had issued notice dated 16.08.2018 to the plaintiff to vacate the said land, he had instituted the instant suit.

4.2 In the written statement filed by defendant No.2, it was asserted that a previous suit for permanent injunction filed by the plaintiff was dismissed by the trial Court and no stay was granted by the Appellate Court in the appeal filed by the plaintiff. It was further asserted that as the claim of the plaintiff regarding ownership in respect of the suit land over which the Kiosk was constructed, was declined by the trial Court, he had no right to dispute the title of defendant No.2 in respect of the suit land. It was further the case of defendant No.2 that the plaintiff was obstructing free flow of traffic in front of the bus-stand by encroaching upon the public property.

4.3 The plaintiff filed replication controverting the contents of the written statement and reiterating those contained in the plaint.

5. From the pleadings of the parties, the following issues were framed:-

1. **Whether the plaintiff is entitled to permanent injunction, as prayed for?OPD**
2. **Whether the suit is not maintainable?OPD**
3. **Whether the plaintiff has not come to the court with clean hands?OPD**
4. **Whether the plaintiff has no cause of action to file the present suit?OPD**
5. **Whether the plaintiff has intentionally not served a legal notice u/s 80 CPC? OPD**
6. **Whether the plaintiff is encroacher of Municipal Land?OPD**
7. **Relief.**

6. Parties led their respective evidence.

7. The trial Court, vide judgment and decree dated 27.02.2020, dismissed the suit filed by the plaintiff. The appeal against the said decision was also dismissed by the first Appellate Court vide judgment and decree dated 01.08.2022. Aggrieved by the same, the appellant-plaintiff has preferred the instant appeal.

8. I have heard learned counsel for the appellant.

9. Learned counsel appearing for the appellant argues that both Courts erroneously held that the appellant was an illegal occupant of the land on which the Kiosk was constructed and, therefore, he was not entitled to seek any injunction against the true owner. It is further argued that it was the pleaded case of the appellant-plaintiff that both defendants had been claiming ownership over the suit land and, therefore, till the decision of the said fact, the plaintiff was entitled to the relief

sought for. It is also argued that having been in possession of the said Kiosk for the last many years on payment of the monthly rent, the finding recorded by both Courts that the plaintiff had encroached upon the Government land, is legally untenable.

10. I have considered the submissions made by learned counsel for the appellant, but find the same to be devoid of merit.

11. In the earlier suit filed by the plaintiff, he had sought permanent injunction against defendant No.2, claiming himself to be a tenant over the suit land on which the Kiosk was installed. The said suit was dismissed vide judgment and decree passed by the trial Court on 26.03.2018 and even an appeal filed against the said decision was also dismissed. The appellant could not show that he had filed any further appeal or revision against the said decision, meaning thereby that the same had attained finality.

12. The trial Court recorded a finding that once in the earlier proceedings, the plaintiff had been held to be an illegal occupant of the said land, he could not file an inter-pleader suit by asserting that there was a dispute between the defendants as regards the ownership of the suit property. It was also held that the property in question belonged to the provincial Government and there was no written agreement with the plaintiff to construct any Kiosk. It was also found that by issuing a notice, defendant No.1 had sought vacant possession of the suit land

and the said process could not be said to be against the due course of law.

13. While affirming the said findings recorded by the trial Court, the first Appellate Court held that since the possession of the plaintiff was only a permissive one, the licence granted to the plaintiff could be revoked and possession could be taken back at any time. The relevant part from the judgment of the first Appellate Court, reads as under:-

*“8. After hearing both the parties and going through the record, it is found that it is a fact that appellant is in possession of a kiosk measuring 4’ X 10’ as fully detailed in the site plan attached with the plaint. The only question to be decided is whether even after submitting or paying the Teh Bazari fee, the documents of , which are exhibited as Ex. PA to PD on the judicial file, the appellant is entitled to keep the possession of the suit property. The main contention which has been raised by learned counsel for the appellant that everybody has a right to work and earn his livelihood and said right is a fundamental right. This court is bound by this settled law and the same is not in dispute. Everybody has a right to earn his livelihood, but the question here is not the same. The question here is whether even after paying the Teh Bazari fee, can the license be revoked or not. In this case, section 173 of Punjab Municipal Act is applicable. Here the appellant has admitted that he is not the owner of the land in question and he is in possession of the same merely on the ground that he is paying Teh Bazari to the Municipal Committee, Ferozepur City, but at the same very time, it is also a fact that there is a judgment and decree against him, whereby his right seeking permanent injunction has already been decided by civil court earlier and even the appeal filed by the appellant already stands dismissed against, which he has not filed any appeal till date nor he brought the same on record any such document. The law above cited by*

*respondent is applicable to the facts of the present case, which stands as under:-*

*In “Pyare Lal etc. Vs. New Delhi Municipal Committee and another” reported in AIR, 1968, Supreme Court, 133, Hon’ble Supreme Court has held that “no exception can be taken to their exercise of power under section 1743 of Punjab Municipal Act to eradicate the evil. After all every person has a right to pass and repass along a public street. He cannot be heard to say that he has a fundamental right to carry on street trading and particularly in a manner, which is bound to create insanitary and unhygienic condition in the neighbourhood”.*

*In “Sardar Singh Vs. M.C. New Delhi” reported in 1966, PLR, 169, Hon’ble Delhi High Court has held that “where the committee though without giving any license or permission accepted Teh Bazari fee from a squatter selling chhole kulche, but later on removed him on the ground that his trade affected the safety and convenience of passerby, it was held that in the first place the permission had to be in writing and if by acceptance of Teh Bazari fee licence or permission is implied, it cannot be held that any legal right was granted. Such licence could be removed at please. Even long possession could not confer a right which could justify a claim for a writ”.*

*In “Rohtak M.C. Vs. Milap Chand, reported in AIR 1953, Punjab, 260”, Hon’ble Punjab Haryana High Court held that “the language of this section is wide enough to apply to licensee, the permission in whose favour has been withdrawn, such licensee is no longer a licensee, but a trespasser. The committee will not be precluded from taking a summary action for the removal of the encroachment which is one of the objections of the statute.”*

9. So, in view of the above judgments, since the possession of the appellant is permissive only under provisions of Punjab Municipal Act, which clearly shows

*that the said license can be revoked at any time and possession can be taken back at any time. So, since, there being the specific provision in such situation of law, no injunction against invocation of legal provision can be granted. As such, this court is of the view that the learned trial court has rightly passed the impugned judgment and decree, so there is no ground to interfere in the findings recorded by the learned trial court. Accordingly, the findings of the learned trial court are affirmed and the impugned judgment and decree are sustained. Accordingly, the point of determination is hereby decided in favour of the respondents and against the appellant.”*

14. The concurrent findings of facts recorded by both Courts cannot be said to be suffering from any patent illegality warranting interference by this Court in the instant Regular Second Appeal. It could not be pointed out that any evidence has been misread or not taken into consideration.

15. For the reasons aforementioned, I do not find any merit in the present appeal and the same is, accordingly, dismissed.

16. Pending application(s), if any, also stands disposed of.

**(VIKRAM AGGARWAL)**  
**JUDGE**

12.05.2026

ds

|                           |   |        |
|---------------------------|---|--------|
| Whether speaking/reasoned | : | Yes/No |
| Whether reportable        | : | Yes/No |