

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

(125)

RSA-3104-2025 (O&M)
Date of Decision: 24.03.2026

SURENDER AND OTHERS

... Appellants

Versus

VIJAY AND ANOTHER

... Respondents

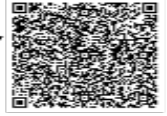
CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Shiv Kumar Rana, Advocate
for the appellants.

VIRINDER AGGARWAL, J. (Oral)

1. The present Regular Second Appeal (here-in-after to be referred as “RSA”) has been filed against the judgment and decree dated 08.07.2025 passed by the learned Additional District Judge, Bhiwani, whereby the well-reasoned judgment and decree dated 19.03.2025 rendered by the learned Civil Judge (Junior Division), Bhiwani, were set aside.

2. For the sake of brevity, the respondent-plaintiffs instituted a suit seeking a permanent injunction restraining the appellants-defendants from interfering with the peaceful possession of the respondent-plaintiffs over the temple, as fully described in the head-note of the plaint. The injunction also sought to prevent the appellants-defendants from encroaching upon any part of the suit property, altering its character, raising any construction thereon, or dismantling the existing structures. It

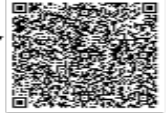


was averred that the temple had been constructed approximately one hundred years ago by Tuhiram and Harnam Dass on their land and had since been managed by their successors. Idols of Lord Shri Krishna, Radha Ji, Hanuman Ji, and Lord Satyanarayan were installed, and a Shivala had been set up. Numerous trees exist on the temple premises, and the remains of Tuhiram, Harnam Dass, and other descendants have been cremated there, with Samads (Chatris) erected over the suit property.

3. The appellants-defendants contested the suit, asserting that appellant-defendant No.2, Meenu, had purchased a 14/995 share in the joint land bearing Khata No.177//26 (9-19) and had constructed her house on the same, on the eastern side adjacent to the suit property. It was contended that defendants No.1, 3, and 4 had been unnecessarily impleaded as parties, and that defendants No.1 and 2 had been operating a public kitchen for animals and birds adjacent to the suit land for the past 14–15 years. The appellants-defendants denied the respondents-plaintiffs' claim to the temple property, asserting that it is a public property held in trust in the name of Tuhiram, Harnam Dass, and is Dharmarth, and that the respondents-plaintiffs have no legal right, title, or possession thereof.

4. The learned Civil Judge dismissed the suit, holding that the Khewat in which the Mandir is constructed remained joint and had not been partitioned by metes and bounds. Defendant No.2, Meenu, being a co-owner of the suit property, was deemed to be in possession of her respective share of the land.

5. Aggrieved by the judgment and decree of the learned Civil Judge, the respondent-plaintiffs preferred an appeal before the learned

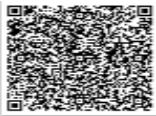


Additional District Judge, who allowed the appeal, setting aside the trial court's decree. Dissatisfied with this outcome, the appellants-defendants have filed the present second appeal.

6. I have considered the submissions advanced by learned counsel for the appellants-defendants and perused the paper-book meticulously.

7. It is established that appellant-defendant Meenu Soni purchased 85 square yards of land, as evidenced by sale-deed Ex.D3, and that she has constructed a house over the entire purchased share, which is in her exclusive possession. The learned First Appellate Court correctly observed that, even assuming the plaintiffs are co-sharers in the joint Khewat, they are entitled to protect their exclusive possession over their respective shares. It is well-settled that co-owners in exclusive possession of their portion of joint property are entitled to defend their possession against forcible dispossession. The appellants-defendants have no right to demolish the existing constructions or encroach upon any portion of the suit property.

7.1 Moreover, it is not disputed that the suit property originally belonged to the family of Tuhiram and Harnam Dass, and that the respondents-plaintiffs, as their successors, are entitled to protect the property. The appellants-defendants have failed to establish that the property is held under a public trust. Accordingly, no grounds exist to warrant interference with the findings of the learned First Appellate Court. The appeal is therefore devoid of merit and is hereby **dismissed**.



8. Consequent upon the final adjudication of the principal matter, all pending miscellaneous applications, if any, arising out of or connected with the present proceedings, are disposed of by necessary implication. No further orders are required in this regard.

24.03.2026
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No