



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

112

RSA-2888-2022 (O&M)
Date of decision: 04.02.2026

Kurra Ram (since deceased) through LR's

. . . . Appellant

Vs.

Chanan (since deceased) through LR's and another

. . . . Respondents

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. G.S. Dhindsa, Advocate, for the appellant.

DEEPAK GUPTA, J. (ORAL)

The present Regular Second Appeal has been preferred by the defendants - appellants challenging the judgments and decrees passed by the learned Trial Court dated 3.2.2018, and affirmed by the learned First Appellate Court on 6.9.2022, whereby the suit for possession filed by the plaintiffs has been decreed.

2. The appellants assail the concurrent findings primarily on the ground that the demarcation conducted during the pendency of the suit is unreliable and could not have been made the basis for decreeing the suit.

3. At the outset, it is apposite to notice that the scope of interference in a second appeal under Section 100 of the Code of Civil Procedure is confined to cases involving a substantial question of law. Concurrent findings of fact recorded by the courts below are ordinarily binding and cannot be interfered with unless shown to be perverse, based on no evidence, or founded upon a misapplication of settled principles of law.

4. The plaintiffs instituted the suit seeking possession of a specific portion of land forming part of their holding comprised in Khasra N: 307 (0-5), alleging encroachment by the defendants. In order to establish the

alleged encroachment, reliance was placed upon revenue records, oral evidence of witnesses, and most importantly, demarcation of the suit land conducted through the revenue authorities pursuant to orders of the Court.

5. Defendants asserted their title and possession on Khasra N: 308 (0-5)

6. The Trial Court, after appreciating the entire oral and documentary evidence, recorded a categorical finding that the defendants had encroached upon a portion of the plaintiffs land. The said finding was not based on the demarcation report alone, but was supported by revenue entries, testimony of independent witnesses, and the admissions emerging during cross-examination of the defendants witnesses.

7. In appeal, the learned First Appellate Court undertook a comprehensive re-appraisal of the evidence, including the challenge laid to the demarcation. The Appellate Court specifically examined the manner in which the demarcation was conducted, the presence of parties, the issuance of notice, the fixing of permanent reference points (pucca burjis), and the preparation of Naksha Tafawat. Upon such scrutiny, it affirmed the finding that the demarcation conducted pursuant to the orders of the Court was lawful, reliable, and inspired confidence.

8. The principal contention raised before this Court is that the demarcation could not have been relied upon as the basis for decreeing the suit. This argument, however, does not advance the case of the appellants for more than one reason. Firstly, the demarcation in question was conducted under the authority of the Court, after due notice to the parties, and in their presence. Secondly, the report was proved by the concerned Field Kanungo, whose testimony remained unshaken in cross-examination. Thirdly, the demarcation was accompanied by Naksha Tafawat and reference to fixed points, lending it objectivity and precision.

9. It is well settled that a demarcation conducted by competent revenue officials, in accordance with prescribed procedure and pursuant to orders of the Court, carries a presumption of correctness. Mere allegations that such demarcation is incorrect or procured, without cogent evidence to

substantiate the same, cannot dislodge concurrent findings recorded on its basis.

10. Significantly, the courts below have also noticed that even the evidence led by the defendants, including their own demarcation material, did not negate the factum of encroachment. On the contrary, the cumulative effect of the evidence on record pointed unmistakably towards unauthorized occupation by the defendants of a portion of the plaintiffs land.

11. This Court finds that the findings recorded by both the courts below are the result of proper appreciation of evidence and application of settled legal principles. No perversity, illegality, or jurisdictional error has been demonstrated. The challenge raised essentially seeks a re-appreciation of evidence, which is impermissible in second appeal.

12. No substantial question of law, much less one arising from the impugned judgments, has been made out for consideration by this Court.

13. Consequently, the Regular Second Appeal is dismissed. The judgments and decrees passed by the learned Trial Court and affirmed by the learned First Appellate Court are upheld. There shall be no order as to costs.

04.02.2026

Vivek

(DEEPAK GUPTA)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>