



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-2221-2001 (O&M)

Reserved on :- 04.11.2025

Date of Pronouncement:-10.11.2025

State of Punjab and Another

... Appellants

Versus

Sadhu Ram (Since Deceased) through his LR

... Respondent

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Dr. Dharminder Singh Lamba, AAG, Punjab,
for the appellants.

Mr. Rajan Bansal, Advocate
for the respondent.

VIRINDER AGGARWAL, J.

1. The present Regular Second Appeal (here-in-after to be referred as “RSA”) has been filed by the appellants/respondents under Section 41 of the Punjab Courts Act, 1918, challenging the concurrent judgments and decrees rendered by the learned Additional Civil Judge (Junior Division), Bathinda, and the learned Additional District Judge, Bathinda. The appellants contend that the findings of the Courts below suffer from errors of law and fact, stemming from a manifest misappreciation of evidence, resulting in substantial prejudice and miscarriage of justice, thereby warranting this Court’s intervention under its appellate jurisdiction.

1.1. For clarity and convenience, the parties shall hereinafter be referred to as the plaintiff and the defendants, corresponding to their respective statuses before the Trial Court. The salient and material facts forming the basis of the present proceedings, which are essential for the adjudication of the issues, are briefly outlined as follows:-



“The plaintiff, Sadhu Ram Goyal, filed a suit for declaration, permanent and mandatory injunction against the State of Punjab and the Sub-Divisional Engineer, Public Health Department, Bathinda, claiming regular water supply through Connection No. PB-45 at original rates. He challenged the per-tap charging order as arbitrary, illegal, and void, and sought refund of excess payment, installation of a functional meter, and 16-hour daily water supply.”

3. Upon service of notice, the appellants/defendants appeared and filed a written statement contending that water charges were levied in accordance with Punjab Government notifications and that the respondent had undertaken to abide by all conditions, including any future revisions of rates. They further asserted that the water supply was adequate, billing under the flat-rate system was lawful, and the suit was not maintainable for want of cause of action, non-compliance with Section 80 CPC, and improper valuation.

4. Upon careful scrutiny of the pleadings and the contentions advanced by the parties, the Court has framed the following issues for determination, ensuring a focused, thorough, and legally sound adjudication of the disputes between the parties:-

1. Whether the plaintiff is entitled to declaration and injunction prayed for? OPP
2. Whether the plaintiff has got no cause of action and *locus standi* to file this suit? OPD.
3. Whether the suit is not maintainable in the present form? OPD.
4. Whether the suit is not properly valued for the purpose of court fee and jurisdiction? OPD.
5. Whether the suit is bad for non service of notice U/s 80 CPC the defendants? OPD.
6. Whether the defendants are entitled to charge to water bill on flat rate, per tap system as per the Govt. instructions ? OPD.



7. Whether the plaintiff had given undertaking to abice by the terms and conditions of the department ? OPD
 8. Whether the defendants are supply water at the rate of 40 gallons per head, per day, to the consumer and total 10 hours in a day?
OPD
 9. Relief.
5. The parties were afforded ample opportunity to adduce evidence in support of their respective claims and defense. Upon the conclusion of evidence and after hearing learned counsel at length, the learned Civil Judge (Junior Division), Bathinda having carefully considered the pleadings, material on record, and submissions advanced, decreed the suit and observed that *“The plaintiff’s suit is decreed; old rates restored, excess adjusted, disconnection restrained, and defendants directed to install a functional meter.”* Aggrieved by this judgment and decree, an appeal was filed before the learned Additional District Judge, Bathinda, which was dismissed by observing that *“The impugned judgment being lawful and well-reasoned is affirmed; the appellants’ meritless appeal stands dismissed with costs.”*
6. The appellant has instituted the present appeal, impugning the concurrent judgments and decrees rendered by the courts below, which was duly admitted for regular hearing. Upon admission, notice was issued to the sole respondent, who appeared and contested the proceedings. Subsequently, the entire record of the subordinate courts was requisitioned to facilitate a comprehensive examination and adjudication of the matter on its merits.
7. I have carefully heard the learned counsel for the appellant at length and bestowed my anxious consideration upon the submissions advanced, in the light of the pleadings, evidentiary material, and the concurrent findings recorded by the Courts below. The record has been meticulously perused to examine the rival assertions and to determine



‘whether the impugned judgments and decrees suffer from any jurisdictional error, perversity, or legal infirmity of such magnitude as to justify appellate interference within the parameters of Section 41 of the Punjab Courts Act, 1918?’”

8. With regard to the scope of a second appeal, it is now a well-settled proposition of law that, in Punjab and Haryana, second appeals are to be treated as appeals under Section 41 of the Punjab Courts Act, 1918, and not under Section 100 of the Code of Civil Procedure. In this context, reliance may be placed on the judgment of the Supreme Court in **Pankajakshi (Dead) through LRs and Others v. Chandrika and Others, (2016) 6 SCC 157**, followed by **Kirodi (since deceased) through LR v. Ram Parkash and Others, (2019) 11 SCC 317**, and **Satender and Others v. Saroj and Others, 2022 (12) Scale 92**. In view of the legal position established by these decisions, no substantial question of law arises that necessitates framing in the present appeal.

9. The learned State Counsel argued that both the courts below erred in holding that there was no basis for the demand made by the appellant-defendants. It was submitted that the lower courts failed to properly consider the facts on record, including the letter annexed as evidence, and overlooked that the water connection had been installed over thirty years ago, during which the cost of water supply and associated labor had substantially increased. Counsel contended that rates necessarily require revision to reflect the actual costs incurred, and further highlighted that similarly situated consumers were being charged in accordance with Annexure-A. Accordingly, it was urged that the impugned judgments and decrees be set aside, and the appeal be allowed.



10. Conversely, learned counsel for the respondent-plaintiff contended that the judgments of both courts below are reasoned, based on a proper appreciation of evidence, and free from any legal infirmity. It was submitted that the appellants-defendants have no statutory or legal authority to impose or recover water charges beyond the originally sanctioned rates. Any purported revision, being arbitrary and unsupported by valid notification or legal provision, cannot bind the respondent. Accordingly, it was urged that the appeal, being devoid of merit, be dismissed with costs, affirming the concurrent findings in favor of the respondent-plaintiff.

11. Upon careful examination of the record, it is apparent that the learned State Counsel could not produce any notification issued by the Public Health Department, Punjab, authorizing the appellant-defendants to levy enhanced water rates. The only document relied upon, Ex.P12, is a letter issued by the Department of Local Government, Punjab, addressed to municipal corporations across Ludhiana, Jalandhar, Amritsar, and all Executive Officers of Municipal Committees and Notified Area Committees. The letter does not confer any power on the appellant-defendants to impose per-tap fixed water charges. Both courts below rightly concluded that Ex.P12 does not authorize appellants to levy such charges and correctly appreciated the evidence.

12. Furthermore, the appellants-defendants failed to demonstrate that the respondent-plaintiff had furnished any undertaking to be bound by revised rates. Even assuming such undertaking were absent, it cannot be presumed that the appellants-defendants are obligated to supply water at a fixed rate indefinitely. As with any future supply contract, the price of goods or services necessarily adjusts over time in accordance with costs incurred in procurement and delivery. But any such increase in water charges must be



duly sanctioned through a valid notification issued by the Public Health Department.

13. In view of the foregoing, the instant appeal is wholly without merit and is therefore hereby dismissed, upholding the concurrent findings and decrees of the learned Courts below.

14. Consequent upon the final adjudication of the main appeal, all pending miscellaneous application(s), if any, stand disposed of in view of the judgment rendered herein. No further orders are required.

10.11.2025
Gaurav Sorot

(**VIRINDER AGGARWAL**)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No