



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

(227)

**RSA-1147-1998 (O&M)**  
**Reserved on :- 08.04.2026**  
**Date of Pronouncement:- 17.04.2026**  
**Uploaded on:- 17.04.2026**

BASAU RAM (SINCE DECEASED) THROUGH HIS LR

... Appellant

Versus

RAM KUMAR

... Respondent

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

**Argued by :-**

Mr. Lokendra Singh, Advocate  
for the appellant.

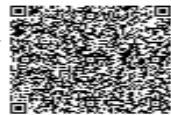
Mr. Nitin Verma, Advocate,  
Mr. Yash Lobra, Advocate,  
Mr. Anurag Mor, Advocate  
for the respondent.

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**VIRINDER AGGARWAL, J.**

1. The present Regular Second Appeal (for short, "RSA") has been instituted by the appellant–plaintiff assailing the judgment and decree passed by the learned Additional District Judge, Hisar, whereby the appeal preferred by the respondent–defendant came to be allowed and, consequently, the judgment and decree rendered by the learned Additional Senior Sub-Judge, Tohana, stood reversed.

2. The factual matrix of the case, as set out in the plaint, may briefly be delineated as under: the appellant–plaintiff claims ownership over the suit land on the premise that the respondent–defendant, namely Ram Kumar, being the owner in possession thereof, had expressed hi



intention to alienate the same. It is pleaded that, in order to circumvent any claim of pre-emption, the parties entered into a perpetual lease deed dated 20.10.1986.

3. It is further the case of the appellant–plaintiff that, pursuant to the said arrangement, a sum of ₹9,500/- was paid, and an annuity of ₹10/- was fixed as rent. It was allegedly agreed between the parties that the appellant–plaintiff, along with his successors, would continue to hold and enjoy the suit land from generation to generation, and that the respondent–defendant would have no subsisting claim, right, or interest in the same thereafter.

4. It is further pleaded that the respondent–defendant Ram Kumar, at the instance of the appellant–plaintiff, executed both a Special Power of Attorney and a General Power of Attorney in favour of Mukhtiar Singh for the purposes of effecting mutation and facilitating registration of the sale in favour of the appellant–plaintiff. However, the respondent–defendant subsequently revoked the said powers of attorneys. Aggrieved thereby, the appellant–plaintiff instituted a suit seeking a decree of declaration to the effect that he is the owner in possession of the suit land and is entitled to have the mutation sanctioned in his favour. Consequential relief of permanent injunction was also sought, restraining the respondent–defendant from interfering with the possession of the appellant–plaintiff or from alienating the suit land in any manner.

4.1. The respondent–defendant contested the suit by filing a written statement, wherein it was asserted that the alleged lease deed was not perpetual in nature but was, in fact, executed for a limited period of



five years, and upon the expiry of the said period, the respondent-defendant became entitled to resume possession of the suit land.

5. The appellant-plaintiff filed a replication, wherein the assertions and objections raised in the written statement were categorically denied, while the averments made in the plaint were reiterated and reaffirmed. Upon a comprehensive and careful scrutiny of the pleadings on record, coupled with the rival contentions advanced by the parties, the learned Trial Court deemed it appropriate to crystallize the matters in controversy and, for the purposes of a systematic and legally coherent adjudication, proceeded to frame the following issues for determination:—

1. Whether the plaintiff has become owner in possession of the suit land detailed and described in the heading of the plaint on the basis of document dt. 20.10.1986? OPP
2. If so, whether the plaintiff is entitled to get the suit land mutated in his favour? OPP
3. Whether the plaintiff has no locus standi and cause of action to file this suit? OPD
4. Whether the suit is not maintainable in the present form? OPD
5. Whether the suit has not been properly valued for the purpose of court fees and jurisdiction? OPD
6. Whether the plaintiff is estopped to file the present suit by his own act and conduct? OPD
7. Whether the suit is bad for mis-joinder and non-joinder of necessary parties? OPD
8. Relief.

6. Upon the framing of issues, both parties were afforded full and fair opportunity to adduce their respective evidence. After hearing learned counsel for the parties and upon a comprehensive appreciation of the



pleadings and evidence on record, the learned Civil Judge proceeded to interpret the terms and conditions of the lease deed in question. The learned Trial Court returned a categorical finding that, notwithstanding its nomenclature, the lease deed was, in substance, a transaction of sale, inasmuch as the respondent–defendant was left with no subsisting right or claim over the suit land and a substantial amount had been paid as premium at the time of its execution. On the basis of such findings, the suit instituted by the appellant–plaintiff was decreed.

6.1. Aggrieved by the said judgment and decree, the respondent–defendant preferred an appeal. The learned First Appellate Court, upon a reappraisal of the entire material on record and a fresh interpretation of the terms and conditions embodied in the document Ex.P1, reversed the findings recorded by the learned Trial Court. It was held that the document in question constituted a perpetual lease deed and could not, in law, be construed as a sale deed. Dissatisfied with the reversal of the decree, the appellant–plaintiff has preferred the present appeal, which came to be admitted for hearing vide order dated 22.05.1998.

6.2. Upon issuance of notice, the respondent appeared through counsel and contested the appeal.

6.3. I have heard learned counsel for the parties at considerable length and have bestowed anxious and thoughtful consideration upon their respective submissions, keeping in view the pleadings of the parties, the evidentiary material brought on record, and the findings returned by the Courts below.

7. At the outset, it is apposite to delineate the scope of the present second appeal. It is now well settled that, in the States of Punjab



and Haryana, second appeals are to be governed by Section 41 of the Punjab Courts Act, 1918 and not by the restrictive provisions contained in Section 100 CPC. Reference in this regard may be made to the judgment of the Hon'ble Supreme Court in ***Pankajakshi (Dead) through LRs and others v. Chandrika and others, (2016) 6 SCC 157, followed by Kirodi (since deceased) through LRs 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 law so laid down, no substantial question of law is required to be framed.

8. Learned counsel appearing on behalf of the appellant–plaintiff has contended that the learned First Appellate Court has committed a material illegality in misinterpreting the lease deed Ex.P1. It is argued that the learned Trial Court had rightly appreciated the true nature of the transaction and had correctly held that the document, though styled as a lease deed, was in essence a sale deed conferring ownership rights upon the appellant–plaintiff, particularly in view of the fact that the respondent–defendant had been left with no right or interest in the suit land. It is further contended that even in the eventuality of non-payment of rent, the lease could not be terminated and the only remedy available to the respondent–defendant would be to recover arrears of rent.

8.1. In support of the aforesaid submissions, reliance has been placed upon the judgments rendered by the Division Bench of the Lahore High Court in ***Amar Singh and another v. Sadhu Singh and others, AIR 1914 Lahore 290; Lachhu and others v. Mela Ram and others, AIR 1929 Lahore 583***; as well as the judgments of the ***Oudh High Court in***



***Maharaja Pandey v. Kali Din Pandey, AIR 1940 Oudh 12*** and ***Oudh Bihari v. Rameshwar Singh and another, AIR 1927 Oudh 161.***

9. It has been further contended by learned counsel for the appellant–plaintiff that, subsequent to the enactment of the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1953, all occupancy tenants in possession under perpetual leases stand statutorily vested with proprietary rights. On this premise as well, it is urged that the appellant–plaintiff has acquired ownership over the suit land.

9.1. Per contra, learned counsel appearing for the respondent–defendant has submitted that the impugned judgment passed by the learned First Appellate Court does not suffer from any illegality or infirmity. It is contended that the terms and conditions of the lease deed Ex.P1 have been correctly interpreted and the document has rightly been held to be a perpetual lease. It is further argued that the plea sought to be raised by the appellant–plaintiff on the basis of the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1953 is being urged for the first time in the present second appeal and finds no mention in the pleadings before the Courts below. On these premises, it is prayed that the appeal be dismissed.

10. A careful perusal of the plaint reveals that the appellant–plaintiff himself has categorically pleaded that the lease deed Ex.P1 was executed with the intention of defeating the preferential rights of pre-emption available to certain third parties. Thus, by the appellant’s own admission, the document was executed with a mala fide intent to circumvent the lawful claims of preferential right holders.

10.1. The authorities relied upon by learned counsel for the appellant, namely ***Amar Singh’s case (supra)***, ***Lachhu’s case (supra)***,



*Maharaja Pandey's case (supra)*, and *Oudh Bihari's case (supra)*, pertain to situations where third parties, claiming preferential rights of pre-emption, challenged the nature of the document by asserting that it was, in substance, a sale deed disguised as a lease. In such cases, the Courts examined the true nature of the transaction so as to prevent evasion of statutory rights.

10.2. However, it is significant to note that in none of the aforesaid precedents was the challenge laid by a party to the very document itself. In the present case, the appellant–plaintiff, having admittedly executed the document with the intent to defeat pre-emption rights, cannot now be permitted to approbate and reprobate by contending that the same document is, in fact, a sale deed. Permitting such a course would amount to conferring an undue and inequitable advantage upon a party who has resorted to deceitful means to defeat the rights of others.

11. In view of the foregoing discussion, this Court finds no infirmity in the conclusion drawn by the learned First Appellate Court that the document Ex.P1 is to be construed as a perpetual lease deed and not as a sale deed conferring ownership rights upon the appellant–plaintiff.

11.1. Insofar as the plea founded upon the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1953 is concerned, it is a settled principle of law that parties must stand or fall on the basis of their pleadings. The appellant–plaintiff has not, at any stage, pleaded that he is an occupancy tenant. In the absence of such foundational pleadings, no benefit under the said enactment can be extended to him at this stage.

11.2. Accordingly, finding no merit in the present appeal, the same stands dismissed.



12. Consequent upon the final adjudication of the principal matter, all pending miscellaneous applications, if any, arising out of or connected with the present proceedings, shall stand disposed of by necessary implication. No separate or independent orders are required to be passed in that regard, the same having been rendered infructuous.

**17.04.2026**  
Gaurav Sorot

**(VIRINDER AGGARWAL)**  
**JUDGE**

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No