



RSA-2100-2000(O&M)

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

(216)

RSA-2100-2000(O&M)

Reserved on: 23.03.2026

Pronounced on: 17.04.2026

Uploaded on: 17.04.2026

Ludhiana Improvement Trust

... Appellant

Versus

Gurcharan Singh and Others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Ms. Kavita Arora, Advocate
for the appellant.

Mr. Shushant Kareer, Advocate with
Mr. Jaskaran, Advocate and
Mr. Sukhleen, Advocate
for the respondents No.1 and 2.

Ms. Tisha Joshi, Advocate
Mr. Hiten Chugh, Advocate with
Mr. S.S.Salar, Advocate
for the respondent No.3.

VIRINDER AGGARWAL, J

1. The present Regular Second Appeal has been preferred by the appellant/defendant against the judgment and decree dated 04.09.1997 passed by the learned Civil Judge (Junior Division), Ludhiana, whereby the suit for permanent injunction filed by the plaintiffs/respondents was decreed, and the judgment and decree dated 04.09.1999 passed by the learned Additional District Judge, Ludhiana, whereby the first appeal filed by the appellant/defendants was dismissed.

BACKGROUND FACTS

2. The plaintiffs, partners of M/s Laxmi Service Station, Ferozepur Road, Ludhiana, purchased the suit land measuring 5 kanals 9 marlas (3292 square



yards) comprised in Khasra Nos. 3/4/2 min, 7/1 min, 4/2 min, 7/1 min, Khata No. 143/234-235 as per jamabandi 1966-67, situated at Village Sunet, Tehsil and District Ludhiana, vide registered sale deed dated 18.09.1968. Immediately thereafter, they installed a petrol pump, raised constructions including two rooms and boundary wall, and have been running the said petrol pump under the name and style of M/s Laxmi Service Station for more than 24 years in peaceful possession. After the municipal limits were extended, the property was given Municipal No. B-XXXV/42 and the plaintiffs have been paying house tax thereon. The dispute arose when officials of the appellant/defendant-Ludhiana Improvement Trust started harassing the plaintiffs and threatened to dispossess them forcibly, claiming that the land formed part of Bhai Randhir Singh Nagar Scheme and that the Land Acquisition Collector had passed an award dated 19.04.1974 in favour of the Trust. The plaintiffs asserted that the acquisition proceedings were invalid and non-est in the eyes of law, as no valid notification under Section 36 of the Punjab Town Improvement Act, 1922 was issued or published in three consecutive newspapers, no sanction was accorded by the State Government, and no notice under Section 38 of the Act was ever served upon them. Aggrieved by the said threat of dispossession, the plaintiffs filed the present suit for permanent injunction on 27.07.1993. On notice defendants appeared and filed written statement and denied the allegation of plaintiffs.

3. Upon a meticulous examination of the pleadings and the competing claims of the parties, the learned Trial Court proceeded to frame the following issues for determination:-

- i. *Whether the suit is liable to be dismissed for want of notice under Section 98 of the Punjab Town Improvement Act, 1922? OPD*



- ii. *Whether the suit is not maintainable? **OPD***
- iii. *Whether the plaintiff is in possession of the property in dispute? **OPP***
- iv. *Whether the plaintiff is entitled to the injunction prayed for? **OPP***
- v. *Whether the property in dispute was validly acquired to implement the scheme, if so, to what effect? **OPD***
- vi. *Relief.*

4. Both parties were afforded full and adequate opportunity to adduce evidence in support of their respective claims and defences. In order to prove his case, plaintiff Gurcharan Singh himself entered into witness box as PW1 and on the other hand, defendant examined Avtar Singh Pannu, Steno, Land acquisition Branch, Ludhiana. Upon appreciation of the entire evidence on record and after hearing learned counsel for the parties, the learned Trial Court decreed the suit holding that the defendant had failed to prove due acquisition in accordance with law. It was found that neither any valid notice was served upon the plaintiff nor was possession ever taken by the Trust. The plea regarding payment or deposit of compensation was also rejected for want of cogent evidence. Resultantly, the suit was decreed in favour of plaintiffs/respondents vide judgment and decree dated 04.09.1997.

5. Aggrieved against the judgment and decree passed by the learned Trial Court, the appellant/defendant preferred an appeal before the learned Additional District Judge, Ludhiana. The learned First Appellate Court, upon reappraisal of the entire evidence on record, affirmed the findings recorded by the learned Trial Court and dismissed the appeal. However, while doing so, it placed



reliance upon the judgment in *Iqbal Singh v. State of Punjab* to observe that since possession had not been taken within one year, the acquisition proceedings could not be enforced.

CONTENTIONS

6. Learned counsel for the appellant-Trust has argued that the judgments and decrees passed by both the Courts below are contrary to law and suffer from serious legal infirmity. She submitted that once the acquisition proceedings under the Punjab Town Improvement Act, 1922 read with the Land Acquisition Act were initiated and the award was passed on 19.04.1974, the jurisdiction of the Civil Court to entertain the suit and grant injunction stood completely barred. In support of this contention, she placed strong reliance upon the judgment of the Hon'ble Supreme Court in *State of Bihar v. Dhirendra Kumar & Others, 1995 (2) PLJR 34*, wherein it has been authoritatively held that the validity of notification under Section 4 and declaration under Section 6 of the Land Acquisition Act cannot be adjudicated by the Civil Court and that the only remedy available is to approach the High Court under Article 226 of the Constitution of India. It is further contended that the Courts below have erred in law in granting a decree of permanent injunction and thereby interfering with the statutory scheme of acquisition as all mandatory provisions of the relevant statutes were duly complied with, compensation was properly assessed, and the amount stood deposited with the Land Acquisition Collector, thereby completing the acquisition proceedings in accordance with law.

7. Per contra, learned counsel for the respondents/plaintiffs has supported the impugned judgments and decrees passed by the learned Courts below. He submitted that no valid acquisition proceedings were ever completed or proved



on record inasmuch as the mandatory statutory provisions of the Punjab Town Improvement Act, 1922 and the Land Acquisition Act were never complied with. It was further argued that there was no valid notification under Section 36 of the Punjab Town Improvement Act, no publication thereof in three consecutive newspapers, no sanction by the State Government, and no notice under Section 38 of the Act was ever served upon the plaintiffs. He emphasised that the plaintiffs are in long and settled peaceful possession of the suit property since 1968, having raised substantial constructions and running a petrol pump thereon for more than 24 years, and therefore they are entitled to protection by way of injunction.

OBSERVATIONS AND FINDINGS

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

9. As regards the scope of second appeal, it is now a settled proposition of law that in Punjab and Haryana, second appeals preferred are to be treated as appeals under Section 41 of Punjab Courts Act, 1918 and not under Section 100 of CPC. Reference in this regard can be made to the judgment of the Supreme Court in the case of '*Pankajakshi (Dead) through LRs and others V/s Chandrika and others*', (2016)6 SCC 157, followed by the judgments in the case of '*Kirodi (since deceased) through his LR V/s Ram Parkash and others*' (2019) 11 SCC 317 and '*Satender and others V/s Saroj and others*', 2022(12) Scale 92. Relying upon the law laid down in the aforesaid judgments, no question of law is required to be framed.



10. The core issue that arises for consideration is the maintainability of a simpliciter suit for permanent injunction at the instance of the plaintiff, when the defendant-Trust has specifically asserted that the suit land already stands acquired and vested in it pursuant to acquisition proceedings conducted in accordance with law and long prior to the institution of the suit.

11. The legal position in this regard is well settled. In *State of Bihar vs. Dhirendra Kumar, 1995 (2) PLJR 34*, the Hon'ble Supreme Court has held that the Land Acquisition Act is a complete code in itself and the jurisdiction of the civil court to examine the validity of acquisition proceedings is impliedly barred. It has been further held that a civil court cannot grant injunction in respect of land which is subject matter of acquisition proceedings. Similar view has been reiterated in *Commissioner, Bangalore Development Authority vs. Brijesh Reddy 2013 (3) SCC 66*, and *Laxmi Chand vs. Gram Panchayat, Kararia, 1996 (7) SCC 218* wherein it has been consistently held that civil courts have no jurisdiction to entertain suits which, in substance, challenge acquisition proceedings.

12. The present suit has been filed by the plaintiff seeking a decree for permanent injunction restraining the defendant-Trust from dispossessing him from the suit property. The case of the plaintiff is founded on his alleged settled possession, whereas the defendant-Trust has categorically asserted that the suit land stands acquired through duly completed acquisition proceedings and that the property has vested in the Trust. A perusal of the pleadings reveals that the entire edifice of the plaintiff's claim is built upon questioning the legality of the acquisition proceedings on grounds such as non-service of notice, non-payment of compensation and non-compliance with statutory provisions. Thus, the relief of injunction, though framed simpliciter, is inseparably linked with and



dependent upon the validity of the acquisition proceedings. The controversy, therefore, ceases to be a mere question of threat to possession and necessarily involves examination of the validity of such acquisition proceedings. Once land is validly acquired and possession is taken in accordance with law, it vests in the acquiring body free from all encumbrances, and any person continuing thereafter would be an unauthorized occupant. Conversely, if possession has not been taken in accordance with law, a person in settled possession cannot be dispossessed except by due process.

13. Significantly, it is evident from the record that both the Courts below have returned findings touching upon the validity of the acquisition proceedings. The learned trial Court, instead of confining itself to the limited inquiry necessary for deciding possession, undertook a detailed examination of alleged procedural lapses, including improper notification, lack of publication, non-service of notice and non-payment of compensation, and on that basis effectively held the acquisition to be invalid. Such an approach clearly exceeds the jurisdiction of a civil court. In a suit for injunction, the Court may incidentally examine the factum of acquisition only to determine whether possession was taken in accordance with law; however, it cannot adjudicate upon the legality or validity of the acquisition proceedings or render findings nullifying them. Issues relating to statutory compliance or validity of acquisition fall within the domain of judicial review under Article 226 of the Constitution.

14. In the present case, the trial Court failed to confine itself to the limited question of lawful possession and instead adjudicated upon the validity of the acquisition proceedings, which was clearly beyond its jurisdiction. The findings to that extent are, therefore, unsustainable. Further, once the plea of acquisition



and vesting was specifically raised, the Courts below were required to first examine the maintainability of the suit, which they failed to do. The proper course was to confine the inquiry to whether the plaintiff was in settled possession on the date of the suit and whether the defendant-Trust had established lawful taking of possession pursuant to the acquisition. The acquisition record could be examined only to this limited extent, without entering into its legality. If the Trust failed to establish lawful possession, the plaintiff would be entitled to protection against dispossession except in due process of law; conversely, if possession had already vested in the Trust, no injunction could be granted. By travelling beyond this limited scope, the trial Court committed a jurisdictional error going to the root of the matter, thereby warranting interference under Section 100 CPC.

15. Applying the aforesaid principles, it is evident that the present suit, though framed as one for injunction, in substance seeks to question the legality and effect of the acquisition proceedings, which is beyond the jurisdiction of the civil court. The Courts below failed to appreciate that the issue of possession could not be decided in isolation once acquisition and vesting were specifically pleaded. The grant of injunction in such circumstances is legally unsustainable. In view of the foregoing discussion and the settled position of law, this Court is of the considered opinion that the present suit, being a simpliciter suit for injunction in the face of acquisition proceedings, was not maintainable.

16. Consequently, the present Regular Second Appeal is **allowed**. The judgments and decrees passed by the Courts below are hereby set aside and the suit filed by the plaintiff stands dismissed as not maintainable.

17. However, in order to balance equities and to afford an opportunity to the parties to avail appropriate remedies, it is directed that the parties shall



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maintain status quo with regard to the nature and possession of the suit property for a period of three months from today. During this period, it shall be open to the aggrieved party to seek appropriate relief before the competent forum in accordance with law.

18. It is further clarified that this Court has not expressed any opinion on the merits of the acquisition proceedings or the competing claims of the parties, including that of any third-party allottee, and all such issues are left open to be adjudicated by the appropriate forum.

19. Since the main appeals stands decided, pending application(s), if any, also stand disposed of.

17.04.2026

Saurav Pathania

(VIRINDER AGGARWAL)
JUDGE

- (i) *Whether speaking/reasoned* : Yes/No
- (ii) *Whether reportable* : Yes/No