



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

**RSA-1885-2001 (O&M)**

**Date of Decision on :-26.05.2026**

Roop Devi and Another

... Appellants

Versus

Dhanna Ram

... Respondent

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

Argued by :-

Mr. Ashish Aggarwal, Senior Advocate with  
Ms. Atika Rani, Advocate,  
Mr. Vishal Pundir, Advocate,  
for the appellant No.2.

Mr. Rajeev Dev Sharma, Advocate  
for the respondent.

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**VIRINDER AGGARWAL, J.(ORAL)**

1. The appellants/defendants, being aggrieved by the decree and judgment dated 24.04.2001 passed by the learned Additional District Judge, Gurdaspur, whereby the well-reasoned decree and judgment dated 20.11.1996 rendered by the learned Civil Judge (Junior Division), Pathankot was reversed, have invoked the appellate jurisdiction of this Court by way of the present Regular Second Appeal (for short, "RSA").

1.1. The appellants seek restoration of the decree rightly granted by the learned Trial Court and consequential redress against the substantial miscarriage of justice occasioned by the impugned judgment. It is respectfully contended that the impugned decree and judgment suffer from



manifest perversity, patent errors of law, and an erroneous appreciation of the evidentiary material available on record, thereby resulting in grave prejudice to the rights and interests of the appellants. The appellants, therefore, pray for setting aside the impugned decree and judgment and for restoration of the lawful and well-founded decree passed by the learned Trial Court.

2. The factual antecedents giving rise to, and culminating in, the present appeal may be delineated as under:-

*The plaintiff, namely Dhanna Ram, instituted the suit in question asserting that he had been cultivating the suit land measuring 8 kanals, fully detailed in the headnote of the plaint and situated in Village Samrala, continuously for a period exceeding two decades as a tenant under the original owner, namely Ram Kishan. It was further pleaded that upon the demise of Ram Kishan, the defendants succeeded to the ownership of the suit property. The plaintiff alleged that despite his continuous possession and cultivation as a tenant, the defendants had initiated unlawful and mala fide attempts to dispossess him from the suit land without any authority of law, thereby compelling him to institute the present proceedings for protection of his possession and legal rights.*

3. Upon service of summons, the defendants entered appearance and contested the suit by filing a joint written statement raising preliminary objections regarding maintainability, contending that the plaintiff was neither in possession of the suit property nor entitled to seek the relief claimed in the present form and ought to have sought a decree of



declaration, particularly in view of the corrected entries in the Khasra Girdawari standing in favour of the defendants.

3.1. On merits, the defendants denied the existence of any landlord-tenant relationship and specifically disputed the plaintiff's claim of cultivating the suit land as a tenant under Ram Kishan or paying any share of produce (Batai). It was pleaded that the revenue entries earlier recorded in favour of the plaintiff were erroneous and were subsequently corrected by the Assistant Collector II Grade, Bamial after due spot inspection in accordance with the actual state of possession. Allegations of collusion with the revenue authorities were emphatically denied, and the suit was asserted to be wholly devoid of merit and liable to dismissal with costs.

4. The plaintiff filed a replication controverting the assertions and objections raised in the written statement and reiterating, in unequivocal terms, the averments and claims set forth in the plaint. Upon a meticulous and comprehensive examination of the pleadings, documents placed on record, and the rival submissions advanced by the parties, the learned Trial Court considered it appropriate to crystallize the controversies arising for adjudication and, for the purpose of facilitating an effective, systematic, and legally coherent determination of the dispute, proceeded to frame the following issues for consideration:-

- 1) *Whether the plaintiff has been the tenant in possession over the suit land ?OPP*
- 2) *Whether the plaintiff is entitled to injunction prayed for?OPP*
- 3) *Whether the suit is not maintainable in the present form ?OPD*
- 4) *Whether the plaintiff has no cause of action to file this suit ?OPD*



5) *Relief.*

5. Both parties were afforded adequate and effective opportunity to adduce evidence in support of their respective pleadings and claims. Upon conclusion of the evidentiary proceedings and after hearing learned counsel appearing on behalf of the parties, the learned Trial Court proceeded to dismiss the suit while holding that the plaintiff had failed to establish his possession over the suit land either at the time of institution of the suit or at the relevant stage thereafter and, consequently, no subsisting cause of action accrued in his favour for maintaining the present proceedings. In view of the findings recorded on the issues framed for adjudication, the learned Trial Court concluded that the suit was devoid of merit and accordingly dismissed the same with costs.

6. Aggrieved by the aforesaid decree and judgment, the plaintiff/appellant preferred an appeal before the learned First Appellate Court. Upon a comprehensive re-appraisal of the oral as well as documentary evidence available on record, the learned First Appellate Court allowed the appeal while observing that the findings returned by the learned Trial Court were legally unsustainable and perverse in nature. The learned First Appellate Court further held that the conclusion regarding the plaintiff not being a tenant over the disputed property, along with the findings recorded on Issue Nos. 1, 2, and 3, had resulted in a serious miscarriage of justice and had caused substantial prejudice to the rights and interests of the plaintiff. Consequently, the appeal was accepted and the defendants were restrained from forcibly interfering with or dispossessing the plaintiff from the suit property, though no order as to costs was passed.



6.1. Dissatisfied with and assailing the findings and conclusions recorded by the learned First Appellate Court, the appellants/defendants instituted the present appeal before this Court. The appeal, having been admitted for regular hearing vide order dated 13.10.2003, notice was issued to the respondents, who entered appearance through learned counsel and contested the proceedings.

7. I have heard learned counsel for the parties at considerable length and have bestowed anxious and thoughtful consideration upon their respective submissions while keeping in view the pleadings of the parties, the oral and documentary evidence brought on record, and the findings concurrently returned by the Courts below.

8. 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 the Punjab Courts Act, 1918 and not under Section 100 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.

9. Learned counsel appearing on behalf of the appellants contended that the learned First Appellate Court has failed to appreciate the material facts and circumstances of the case in their correct perspective



and has consequently misread the evidence on record while also misconstrued and misapplied the mandatory provisions of law. It was further contended that no relationship of landlord and tenant between the parties has been established through cogent or reliable evidence on record. Learned counsel further submitted that the learned Additional District Judge reversed the findings recorded by the learned Civil Judge solely on the basis of revenue entries, without considering the settled principle that revenue entries carry a presumption of continuity unless rebutted in accordance with law. It was argued that the respondent-plaintiff had failed to establish the manner in which he entered into possession of the suit property or to demonstrate that the revenue entries reflecting his possession had been altered or continued in due course of law. It was further contended that the learned First Appellate Court failed to appreciate that the Khasra Girdawari entries had already been ordered to be corrected in favour of the appellants-defendants prior to the institution of the present suit, inasmuch as the Assistant Collector II Grade, Bamial had passed the relevant order on 10.09.1983, whereas the suit itself came to be instituted on 14.10.1993. Learned counsel additionally argued that since the appellants-defendants had examined their General Power of Attorney holder, who was duly managing and looking after all their affairs, the non-appearance of the appellants personally could not be construed as an adverse circumstance against them. It was thus submitted that the findings recorded by the learned First Appellate Court are founded upon surmises and conjectures, are legally unsustainable, and therefore warrant interference and setting aside by this Court.



10. Per contra, learned counsel appearing on behalf of the respondent-plaintiff contended that the learned First Appellate Court had undertaken a proper and lawful appreciation of the evidence available on record and had rightly concluded that the respondent-plaintiff was in possession of the suit land and could not be dispossessed therefrom except in accordance with due process of law. It was further submitted that the revenue entries exhibited as Ex. P-1 to Ex. P-3 unequivocally establish the possession of the respondent-plaintiff over the suit property and, therefore, the findings recorded on the basis thereof do not call for any interference by this Court in exercise of appellate jurisdiction. Learned counsel further contended that the order passed by the Assistant Collector II Grade regarding correction of Khasra Girdawari had subsequently been set aside by the Financial Commissioner and, therefore, the appellants cannot derive any benefit therefrom. Accordingly, it was prayed that the present appeal, being devoid of merit, deserves dismissal.

11. The learned Additional District Judge, Gurdaspur, while adjudicating the controversy, recorded findings in paragraph No. 11 of the impugned judgment, which read as under:-

*11. That the factum of possession of the plaintiff over the disputed property has been adequately proved on the record by Jamabandis Ex. P-1 and Ex. P-2 and Khasra Girdawari Ex. P-3, as per which, right from the year 1986 to 1993, the plaintiff Dhanna Ram son of Rakha Ram is shown to be in cultivating possession of the suit property. The fact that no entry pertaining to terms of tenancy finds mention in column No. 9 does not per se show that the plaintiff was in unauthorized occupation and, moreover, this possession has been*

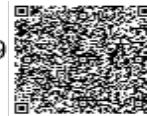


*continuous from 1986 till the year 1993. The defendants, on the other hand, have simply relied on the copy of the order passed by the Collector, Pathankot in appeal pertaining to the correction of Khasra Girdawari in favour of the owners and even the document Ex. D-2, Jamabandi for the year 1991-92 relied upon by the defendants, shows Dhanna Ram to be incorporated in Khasra Girdawari Ex. D-3. However, the correction of the Khasra Girdawari entered in the document in red ink and according to which this change has been effected on the orders of AC Grade-II, and which change admittedly has been effected immediately near to the filing of the civil suit, shows that the Civil Court, in order to give findings regarding possession of the parties, is not supposed to rely absolutely on the findings of the revenue authorities and must independently assess the evidence and arrive at findings on its own, and this ratio has been laid down in 1972 P.L.J. 211, Gurnam Singh and others Vs. Jagjit Singh and others. Though entries in the record of rights are not the foundation of title and are mere items of evidence, as has been laid down in 2000(2) R.C.R. (Civil) 67, Smt. Guran Devi Vs. Balbir Singh, and considering these Jamabandis proved on the record by the rival parties in the light of this proposition of law, it clearly emerges that plaintiff Dhanna Ram is shown to be in possession of the disputed property for a long period of time and his stand is adequately proved by the relevant revenue record. It has also been laid down in 1987 P.L.J. 356, Faridabad Complex Administration Vs. Diwan Chand, that in a suit for permanent injunction, no findings regarding the status of the parties can be given and the Court is only to see the factum of possession over the disputed property and the question of title is to be left open to be decided in appropriate proceedings. The learned lower Court, in the instant case, has given findings regarding the*



*status of the parties by holding that the plaintiff was not the tenant in the suit land, which is quite contrary to the proposition of law cited ibid. Since the entire evidence led by the defendants to rebut the stand of the plaintiff is oral and the only solitary document led in additional evidence is Ex. D-6, whereby one Ram Kishan son of Asa Ram is shown to be the owner and in cultivating possession of the disputed property, and this correction of Khasra Girdawari pertains to the year 1987 and is quite contrary to the defendants' own stand, who admit that long ago Ram Kishan, the original owner, had died and defendant Roop Devi, being his widow, had inherited his estate, and this correction has been effected subsequently after the death of the deceased, it throws light on the suspicious circumstances under which Ex. D-6 has been created and, as such, it becomes an unreliable and unguine attempt on the part of the defendants to thwart the legal action of the plaintiff. Thus, from the above, it stands amply proved on the record by the plaintiff that he is in possession of the disputed property. The relationship between the parties is left open and it is held that the plaintiff is entitled to the injunction prayed for. As such, Issues No. 1 and 2 stand disposed off.*

11.1. A perusal of the impugned judgment reveals that the learned First Appellate Court proceeded on the premise that the orders passed by the Assistant Collector II Grade had been issued immediately prior to the institution of the civil suit and that the Civil Court was required to independently arrive at its conclusions on the basis of the evidence adduced before it, the findings recorded by the revenue authorities not being binding in nature. It was further observed that the status of the parties and the question of title to the suit property were matters to be



adjudicated in appropriate proceedings and, therefore, the learned Trial Court had erred in recording findings regarding the status of the parties, which was contrary to the settled position of law. The learned First Appellate Court further held that the evidence adduced on behalf of the appellants-defendants was primarily oral in nature and consequently concluded that the plaintiff had successfully established his possession over the suit land and was therefore entitled to the relief of injunction as prayed for.

11.2. However, the learned First Appellate Court appears to have overlooked the well-settled legal principle regarding the presumption of continuity attached to revenue entries, as recognized by the Hon'ble Apex Court in ***The State of A.P. and Others vs. M/s Star Bone Mill and Fertiliser Company, 2014(6) RCR(Civil) 803***, wherein it was held that a revenue record does not constitute a document of title and merely gives rise to a presumption concerning possession. It was further observed therein that a presumption regarding possession and continuity thereof, both prospectively and retrospectively, may also be drawn under Section 110 of the Evidence Act.

12. This Court in ***Mukhtiar Singh and Another vs. Bua Ditta and Others, 2017(4) ICC 933***, has held as under:-

8. *“The plaintiffs had asserted their possession as gair marusi. They are not the owners. There is no plea that they were tenants or licence's. They have not explained whether they had legally entered the property. When a person has no interest or right in the property or where the possession is not lawful, he is not entitled to any injunction. In Harniv Sandhu v. Sandeep Singh Sandhu 1998(3)*



*Civil Court Cases 676, it was clearly held that where a party seeking possession fails to produce any legal documents or show valid reasons as to on what basis he took over the possession, then he is not entitled to discretionary relief of injunction because the Courts do not protect the possession of a trespasser against the true owners.”*

13. In the instant case, the revenue record, specifically the *Khasra Girdwari* (Ex. D6), unequivocally establishes that Ram Kishan, the predecessor-in-interest of the appellants-defendants, was recorded as the owner-in-possession of the suit land up to the *Kharif* (Sauni) 1986 harvest. Crucially, during the subsequent *Rabi* (Hadi) 1987 harvest, the *Khasra Girdwari* entry was altered to reflect the name of the respondent-plaintiff, which mutated entry was subsequently carried forward into the *Jamabandi* (Record of Rights).

13.1. The learned First Appellate Court completely failed to appreciate the settled legal presumption favoring the continuity of entries in revenue records. Furthermore, it completely disregarded the mandatory statutory mandate enshrined in the Punjab/Haryana Land Records Manual, which dictates that no alteration in a *Khasra Girdwari* entry can be legally effected except by a speaking order passed by a competent revenue authority or on the strength of a *Rapat Roznamcha* (daily diary) entry recorded with the explicit consent of the parties. In the case at hand, there is an absolute dearth of evidence or material on record to substantiate the legal basis or authority under which the entry was altered in favor of the respondent-plaintiff during *Rabi-1987*.



13.2. Upon discovering this fraudulent and erroneous alteration, the appellants-defendants diligently moved the competent revenue authority. Consequently, the Assistant Collector 2nd Grade, vide order dated 10.09.1993 (Ex. D4), directed the correction of the *Khasra Girdwari* in favor of the appellants-defendants a finding subsequently affirmed by the Collector vide order Ex. D1. The learned First Appellate Court erroneously discarded these corrective orders of the revenue authorities on the mere pretext that a Civil Court must record independent findings based on the evidence before it. Ironically, while doing so, the First Appellate Court placed implicit reliance on the very revenue entries that existed prior to the correction, without examining the lawful genesis of those initial entries.

13.3. No evidence was led by the respondent-plaintiff to justify the circumstances or the authority under which the *Khasra Girdwari* entries were altered in his favor during *Rabi-1987*. Consequently, those entries are *void ab initio*, lacking any legal substratum. At the time of the institution of the suit, the appellants-defendants stood duly recorded as the party in lawful possession of the suit land pursuant to the operation of the order passed by the Assistant Collector 2nd Grade.

13.4. Therefore, the findings recorded by the learned First Appellate Court are vitiated by a gross misreading of evidence and a patent misinterpretation of the settled provisions of law, rendering them wholly unsustainable. The subsequent order of the Financial Commissioner which set aside the concurrent orders of the Assistant Collector and the Collector was passed solely in deference to, and on the basis of, the impugned decree and judgment delivered by the learned First Appellate Court. As the



foundational judgment of the learned First Appellate Court is itself under challenge in the present second appeal, no independent evidentiary value or reliance can be fastened upon the order of the Financial Commissioner.

13.5. Accordingly, the perverse findings of the learned First Appellate Court deserve to be set aside, the decree and judgment of the learned Trial Court ought to be upheld, and the present appeal is hereby **allowed** and decree of First Appellate Court is set aside and that of Trial Court is restored.

14. Consequent upon the final adjudication of the principal matter, all pending miscellaneous applications, if any, arising out of or interconnected with the present proceedings, shall stand disposed of *pari passu* by necessary implication. In light of the final conclusions arrived at hereinabove, no separate, independent, or distinct orders are warranted in respect of such interlocutory applications, their determination having been rendered entirely infructuous and academic.

**26.05.2026**  
Gaurav Sorot

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

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No