

2025:PHHC:084527



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

**Reserved on: July 07, 2025  
Pronounced on: July 14, 2025**

**RSA No.624 of 2020(O&M)**

**Harish Sharma**

**. . . . Appellant**

**Vs.**

**Azad Singh and another**

**. . . . Respondents**

**\* \* \* \***

**CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA**

**Argued By:-** Mr. D.K. Tuteja, Advocate for the appellant.

Mr. Deepak Thapar, Advocate for the respondents.

**DEEPAK GUPTA, J.**

This is an appeal filed by the defendant challenging the concurrent findings of the Courts below, whereby the suit for mandatory injunction filed by the plaintiffs, Azad Singh and Balvir Singh (*respondents herein*), was decreed by the Trial Court on 20.12.2018, and affirmed by the First Appellate Court vide judgment dated 19.11.2019.

2. The plaintiffs claimed that the basement area of their building (suit property) was given to the defendant on license basis for ₹10,000 per month for keeping machines, with a clear understanding that the premises would be vacated on demand. Upon requiring the property in 2009, they asked the defendant to vacate, but he refused. Consequently, the license was terminated in September 2009. Instead of vacating, the defendant allegedly broke open the lock and demolished a joint wall. A police complaint was made, and the defendant undertook to hand over possession but failed to comply. The plaintiffs therefore sought:

- A decree of mandatory injunction directing delivery of vacant possession, and
- Mesne profits from the date of license termination till possession was delivered.

3. The defendant contended that he was inducted as a tenant in 2005 at a monthly rent of ₹3,000, along with a *pagri* payment of ₹6,000. He denied being a licensee and opposed the suit.

4. Based on evidence led by the parties, the Trial Court concluded that the defendant was in possession as a licensee and not as a tenant. The claim for mesne profits was declined, but the relief of mandatory injunction was granted. The First Appellate Court upheld these findings.

5. The appellant's primary contention is that in an earlier suit between the plaintiffs and their brother Baljeet Singh, the plaintiffs had described the defendant as a tenant. It was argued that such admission was binding and constituted the best evidence. It was also contended that the First Appellate Court erroneously shifted the burden of proof onto the defendant.

6. Upon hearing learned counsel for both parties and perusal of the paper-book, this Court finds no merit in the appeal.

7. The defendant had earlier filed a suit for permanent injunction in 2010 (Civil Suit No. 280/2010), claiming tenancy rights. The Trial Court, vide judgment dated 31.08.2013, found that the defendant failed to prove his status as a tenant. However, as he was in possession, the suit was decreed to the limited extent that he could not be dispossessed except in accordance with law. The Appellate Court, in Civil Appeal No. 131/2013, affirmed the judgment, observing that tenancy determination was not essential in that suit for injunction.

8. Separately, the defendant also filed a petition under Section 10 of the Haryana Rent Act seeking restoration of electricity supply, again

claiming tenancy. The Rent Controller, Rohtak, dismissed the petition on 04.08.2015, holding that tenancy was not proved. No appeal was filed against this order.

9. These earlier verdicts, rendered in proceedings, where the present parties were litigating inter se, did not uphold the defendant's claim of tenancy.

10. The defendant relies on an alleged admission in a separate suit filed by the plaintiffs against their family members (*Balbir Singh & another v. Baljit Singh & another*), where in para 8 of the plaint, the defendant was described as a tenant. However, as rightly noticed by the courts below:

- The defendant was not a party to that suit.
- During testimony in the present case, the plaintiff clarified that the statement was a clerical mistake.
- The Courts below have correctly held that such an admission is not conclusive, especially in view of contrary judicial findings in proceedings directly between the present parties.

Hon'ble Supreme Court in ***Basant Singh v. Janki Singh, AIR 1967 SC 341***, has held that an admission may be used as evidence but is not conclusive and can be explained.

11. While the general rule under Section 101 of the Indian Evidence Act is that the burden lies on the party asserting a fact, once the plaintiffs have specifically pleaded and testified that the defendant was a licensee and the license was terminated, it was incumbent on the defendant to rebut this claim. He failed to produce: any rent receipt, evidence of electricity connection, or any documentary proof of tenancy. In fact, the absence of electricity and lack of rent receipts support the plaintiffs' version that the premises were merely used by the defendant for storing equipment under a license.

12. As such, this Court finds no illegality or perversity in the concurrent findings of the Courts below. The finding that the defendant was not a tenant, but a licensee whose license stood terminated, is based on proper appreciation of evidence. Accordingly, the appeal is **dismissed as devoid of merit.**

**July 14, 2025**

*Sarita*

**(DEEPAK GUPTA)**

**JUDGE**

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No