



In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 2766 of 2022 (O&M)

Date of Decision: 03.03.2025

Kanta Devi

... Appellant(s)

Versus

Darshana Devi (Since Deceased) through her Legal Representatives

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. S.K.Chaudhary, Advocate
for the appellant(s).

Anil Kshetarpal, J.

1. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in *Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157*.

2. The plaintiff assails the correctness of the concurrent findings of facts arrived at by both the Courts below while dismissing her suit for the grant of decree of possession to the effect that she is the owner in possession of the house on the basis of sale deed dated 13.06.1995.

3. The defendant filed a counter claim. It was found that in the previous round of litigation between the parties, their rights were decided by the Trial Court vide judgment dated 14.05.2001, which, in appeal, was affirmed on 06.01.2005. Both the Courts below have found that in view of

the findings of facts arrived at in the first round of litigation, the present claim of the plaintiff is barred by the doctrine of *res judicata*.

4. The learned counsel representing the appellant has failed to draw the attention of the Court to any error in the findings of facts recorded by both the Courts below. He is unable to dispute the fact that in the previous round of litigation, the plaintiff lost the litigation and hence, she cannot maintain the fresh suit.

5. Keeping in view the aforesaid facts, no ground is made out to interfere with the concurrent findings of facts arrived at by both the Courts below. Hence, the present appeal is dismissed.

6. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

March 03, 2025

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No