

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****RSA-2678-2024 (O&M)**
Date of Decision : 16.09.2025

Vinod ... Appellant

Versus

Sandeep and Others ... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Yogesh Jangra, Advocate for the appellant.

ALKA SARIN, J. (Oral)

1. Present appeal has been filed by defendant No.1 challenging the judgment and decree dated 06.09.2019 passed by the Trial Court and the judgment and decree dated 23.07.2024 passed by the First Appellate Court.

2. The brief facts relevant to the present *lis* are that plaintiff-respondent No.1 herein filed a suit for possession of land measuring 34.51 sq. yards which is part and parcel of plot measuring 100 sq. yards (03 Marlas) compromised in Khasra No.614//11(0-3), Khewat No.526//491, Khatauni No.615, situated at village Dhana Kalana, Tehsil Hansi, District Hisar, as per Jamabandi for year 2014-15. It was the case set up by the plaintiff-respondent No.1 that Hari Kishan, father of plaintiff-respondent No.1 and proforma defendant-respondent Nos.2 to 5, was allotted a plot in question by the State of Haryana for the purposes of upliftment of weaker section of the society vide *Anudan Patra* No.1327 dated 26.06.1976 and the possession was also delivered to Hari Kishan by the Gram Panchayat on the spot in Khasra

No.614//11. Thereafter, Hari Kishan started using the plot for the purposes of his exclusive use to tether cattle and he also used to keep other agriculture implements. Fencing was also done by the father of plaintiff-respondent No.1. However, he expired on 25.11.1985 leaving behind the plaintiff-respondent No.1 and proforma defendant-respondent Nos.2 to 5. It was further the case set up that the plaintiff-respondent No.1 and his brother are in service and mostly remain out of the house in connection with their duties and defendant No.1-appellant taking benefit of the absence of the plaintiff-respondent No.1 and his brother about 4 months ago illegally and unauthorizedly raised construction over some portion of the plot in question without the consent and permission of the plaintiff-respondent No.1. The plaintiff-respondent No.1 requested defendant No.1-appellant a number of times to remove the encroachments however he refused to do so. The plaintiff-respondent No.1 also to ascertain the exact area of the plot, moved an application to the Tehsildar, Hansi for the purposes of demarcation of the land comprised in Khasra No.614//11 (0-3). On the aforesaid application, demarcation proceedings were carried out by the concerned revenue officials and a report dated 15.05.2017 was submitted in this regard according to which defendant No.1-appellant had illegally encroached upon the land to the extent of 17'6" in East, 17'6" in West, 17'10" in North and 17'10" in South of Khasra No.614//11(0-3). The demarcation was done after giving notices to the concerned officials and in the presence of defendant No.1-appellant herein. Hence, the present suit.

3. Defendant No.1-appellant herein filed his written statement raising various preliminary objections. It was further the stand taken that there was no encroachment which has been made by him and that he was in

possession of the suit property since the time of his father and that the demarcation report was not a valid report.

4. On the basis of pleadings of the parties the following issues were framed :

1. Whether the plaintiff is entitled for possession of land measuring 34.51 Sq. yards as detailed in the head note of the plaint ? OPP
2. Whether the plaintiff is entitled for injunction restraining the defendant No.1 from raising further construction over any part or portion of the suit land including the illegally possessed area and from changing its nature in any manner ? OPP
3. Whether the plaintiff has no locus-standi to file the present suit ? OPD
4. Whether the plaintiff has no cause of action to file the present suit ? OPD
5. Whether the plaintiff is estopped by his own act and conduct from filing the present suit ? OPD
6. Whether the suit of the plaintiff is not maintainable in the present form? OPD
7. Relief.

5. The Trial Court vide judgment and decree dated 06.09.2019 decreed the suit. Aggrieved by the same an appeal was preferred which appeal was also dismissed vide judgment and decree dated 23.07.2024 by the First Appellate Court. Hence, the present regular second appeal by the defendant No.1-appellant.

6. Learned counsel for the defendant No.1-appellant would contend that both the Courts have erred in decreeing the suit. It is urged that when Hari Kishan, father of plaintiff-respondent No.1 and proforma defendant-respondent Nos.2 to 5, was allotted the plot in question by the State of Haryana

vide *Anudan Patra* No.1327 dated 26.06.1976 (Ex.P6) there was a condition that that if he did not build on the same within 12 months the property would be resumed. Since the construction was not carried out, the suit property was allotted to the father of defendant No.1-appellant by the Gram Panchayat. Learned counsel for the defendant No.1-appellant has sought to lead as additional evidence by filing application being CM-1447-C-2025 i.e. an agreement dated 24.02.1992, which has been appended as Annexure A-4 with the application, stating that the Gram Panchayat Dhana Kalan, Tehsil Hansi, District Hisar had given the property for the residential purpose to Jawahar Singh son of Ramdatt caste Ghumar, resident of Dhana Kalan and Hare Singh son of Ramdatt caste Ghumar, resident of Dhana Kalan, Tehsil Hansi, District Hisar in equal shares and the Gram Panchayat or any other person had no concern with the said plot. It has further been contended that as per this agreement, the plot had been allotted to the father of defendant No.1-appellant by the Gram Panchayat.

7. Heard.

8. In the present case both the Courts concurrently found that the plaintiff-respondent No.1 in order to prove his ownership over the suit property had relied upon *Anudan Patra* No.1327 dated 26.06.1976 (Ex.P6) and mutation No.1747 (Ex.P7), mutation No.4906 dated 10.08.2018 (Ex.P8), Jamabandi for the year 2014-15 (Ex.P9) and returned concurrent findings that as per the said documents the suit property was allotted to the father of plaintiff-respondent No.1. The argument of learned counsel for the defendant No.1-appellant relying upon the agreement (Annexure A-4), which has been appended with the application for additional evidence being CM-1447-C-2025, would not come to his aid inasmuch as the said agreement neither states

as to when the said property was allotted by the Gram Panchayat nor does it refer to any minutes vide which the resolution was passed to allot the suit property to the father of defendant No.1-appellant. Rather, it simply states that the suit property had been allotted to the father of the defendant No.1-appellant. Further, the argument of learned counsel for the defendant No.1-appellant that the *Anudan Patra* dated 26.06.1976 (Ex.P6) had a condition that in case the construction was not raised over the suit property within a period of 12 months the same would be resumed and since no construction was raised it was allotted to the father of defendant No.1-appellant, also deserves to be rejected. There is nothing on the record to even remotely suggest that the property was ever resumed by the State of Haryana, hence there was no question of the same being allotted to anyone else. In the absence of any reliable and cogent evidence, no fault can be found with the judgments and decrees passed by both the Courts.

9. It is apt to note that during the pendency of the present appeal the execution also stands dismissed as being fully satisfied.

10. In view of the above, I do not find any merit in the present appeal. No question of law, much less any substantial question of law, which requires determination, arises in the present case. The appeal and the application for additional evidence being devoid of any merit are accordingly dismissed. Pending applications, if any, also stand disposed off.

16.09.2025
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO