



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

**RSA No.3292 of 2016(O&M)**

**Date of Order:19.03.2025**

**Kalu**

**.Appellant**

**Versus**

**Bakridi**

**..Respondent**

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**Present: Mr. Anil Ghanghas, Advocate  
for the appellant.**

**Mr. R.S.Duggal, Advocate  
for the respondent.**

**ANIL KSHETARPAL, JUDGE (Oral)**

1. The defendant assails the concurrent findings of fact arrived at by the courts below while decreeing the plaintiff's suit for grant of decree of mandatory injunction directing the defendant to leave and vacate two rooms constructed upon the ground floor of House No.241, Phase-I, Ram Darbar, UT, Chandigarh and for recovery of mesne profit.

2. The plaintiff and the defendant are brothers. The plaintiff filed the suit claiming that he is an exclusive owner of House No.241 and the defendant was inducted as licensee which has been terminated.

3. The defendant contested the suit on the ground that the plot in question was jointly allotted to both the brothers by the Chandigarh Administration. Subsequently, both the brothers divided the plot into two parts i.e. 15'x10' each and constructed their residential portions. The defendant is paying the electricity charges and the electric connection is also in his name.



4. Both the courts decreed the suit.
5. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book along with scanned copy of the requisitioned record.
6. Ex.D1 is a copy of the application submitted by both the brothers, namely, Sh. Bakridi and Sh. Kalu for allotment of transit site as they were previously residing in 'Jhuggi'. Most important document Ex.D2 makes an interesting reading, hence, the same is extracted as under:-

*“To*

*The Estate Officer  
U.T.Chd.*

*Sir,*

*Allotment of T.site No.241 is Karsan Colony Chandigarh. The above noted T.site was allotted by your goodself in my name as well as in the name of younger brother Sh. Kalu s/o Dilphool. Now I want to obtain the loan from Punjab National Bank for the construction of house on the said site. It is, therefore, requested that the above noted Transit site may kindly be transferred in my name only for securing loan.*

*Thanking you.*

*Dated: 9.3.77*

*Yours faithfully,  
Thumb mark of  
Bakridi s/o Dil Phool  
Signed by Poonam Gupta  
Signed on: 2024.08.12  
16:17:02 ITS*

T.Site No.241 was allotted to S/Shri Bakridi and Kalu sons of Shri Dil Phool. May allot T.Site No.241 in the name of Sh. Bakridi only for securing loan from the Bank for the const. of house on the above noted site.



D.C.A Sd/-11.3.77 Sd/-9.3.77”

7. Above noted writing is by the officials of the Chandigarh Administration.

8. On the basis of this letter, the allotment letter was issued to the plaintiff (respondent herein), on 14.03.1977.

9. It is evident from reading of Ex.D2, that the plot was allegedly transferred exclusively in favour of the plaintiff only to obtain loan from the bank. This document is thumb marked by the plaintiff. The UT Administration transferred the plot to facilitate the plaintiff to obtain loan. Moreover, the property worth more than Rs.100/- cannot be transferred from one to another without registered instrument. It is evident that the transfer of the property exclusively in favour of the plaintiff instead of joint was only for the purpose of facilitating loan which the plaintiff planned to borrow from the bank. Both the courts have overlooked the aforesaid document.

10. Additionally, both the courts have relied upon an oral evidence. Once, there is documentary evidence to prove that the allotment was made in favour of two brothers and it was the plaintiff who applied for transferring the plot exclusively in his name because he wanted to borrow the loan, the courts erred in relying upon the oral evidence.

11. The learned counsel representing the respondent has read the statement of an official from Chandigarh Administration who has stated that the allotment in favour of the plaintiff was made on 14.03.1977. He further refers to the statement of the defendant wherein he admits that he has already sold houses, one located in village Hallomajra, whereas second located in Sector 52, Chandigarh. He further states that the loan was repaid



by the brothers.

12. This court has considered the submissions of the learned counsel representing the respondent.

13. The learned counsel representing the respondent has been asked to explain document Ex.D2, however, he failed to furnish any explanation. The respondent has not led any evidence to prove that this document was not thumb marked by him or the application was never submitted by him to the administration or to the effect that the plot was never exclusively transferred in his favour because of this application.

14. Moreover, there is no evidence that the plaintiff ever permitted the defendant to reside. It has come in evidence that the defendant constructed two rooms. There are two electricity connections, one in the name of the plaintiff and second in the name of the defendant.

15. Keeping in view the aforesaid facts and discussion, the judgments passed by both the courts below are set aside and the suit filed by the plaintiff stands dismissed.

16. The Regular Second Appeal is allowed.

17. All the pending miscellaneous applications, if any, are also disposed of.

**(ANIL KSHETARPAL)**  
**JUDGE**

**March 19, 2025**

**nt**

**Whether speaking/reasoned** : **Yes/No**  
**Whether reportable** : **Yes/No**