



RSA-1952-2025 (O&M)

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

S.No.137

**RSA-1952-2025 (O&M)**  
**Date of decision : 1.7.2025**

Raj Rani through Her LRs

... Appellants

VERSUS

Monu and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. A.K.Khunger, Advocate,  
for the appellant(s).

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**PANKAJ JAIN, J. (Oral)**

Plaintiff is in second appeal.

2. Plaintiff filed suit seeking decree of declaration to the effect that she is owner of the property measuring 701 square feet comprised in Khasra No.2729/1801 min bounded as per the details given in the headnote of the plaint consisting of 5 shops having acquired title thereof after the death of her father Hira Lal and that the entry in the name of defendant No.1 qua one shop measuring 10 x 15 feet is illegal, null and void, ab-initio, invalid and result of fraud and that the sale deed dated 21.04.2011 bearing document No.419 executed by defendant No.1 in favour of defendants No.2 and 3 qua the said shop is not binding on her rights. The plaintiff further sought decree of possession qua the said shop with consequential relief of permanent injunction.

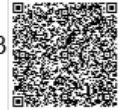


RSA-1952-2025 (O&M)

3. The plaintiff claimed that originally, one Gian Chand son of Megh Raj was owner of property measuring 701 square feet comprised in Khasra No.2729/1801 min as per jamabandi for the year 1977-78. Father of the plaintiff namely Hira Lal purchased the said property from Gian Chand vide registered sale deed dated 06.09.1972 and constructed 5 shops over the said property. One shop measuring 10 x 15 feet was licensed to the father of defendant No.1 namely Wazir Chand in the year 1982-83 who continued to be in possession at the spot. The plaintiff claimed that her father orally revoked license of Wazir Chand asking him to vacate the shop. Wazir Chand having failed the vacate the same was in unauthorized and illegal possession over the same. Hira Lal died on 10.06.2007. Taking undue advantage of the death of Hira Lal, Wazir Chand got his name incorporated in the municipal record/house tax assessment register playing fraud and misrepresentation. The entry in the municipal records does not confer any title upon Wazir Chand. After Wazir Chand, defendant No.1 came in unauthorized occupation of the shop in question and later on sold the same in favour of defendants No.2 and 3 vide sale deed dated 21.04.2011.

4. The plaintiff, thus, claimed for decree of declaration and that of possession claiming herself to be true owner under her father Hira Lal.

5. Defendants No.1, 2 and 3 filed written statement denying claim of the plaintiff. As per the defendants, shop was constructed by forefathers of the answering defendants. Neither the plaintiff nor her father or Gian Chand had any concerned with the shop.



RSA-1952-2025 (O&M)

6. Defendant No.4 filed separate written statement denying claim of the plaintiff and claiming that as per record maintained by Municipal Council, Abohar, the property stands in the name of Wazir Chand son of Bhagwan Dass father of defendant No.1.

7. On the basis of the pleadings, following issues were framed : -

1. *Whether the plaintiff is entitled for relief of permanent injunction as prayed for? OPP*

1-A. *Whether the plaintiff is entitled for declaration as prayed for? OPP*

2. *Whether the plaintiff is entitled for relief of possession of the suit property as prayed for? OPP*

3. *Whether the suit of the plaintiff is within limitation? OPP*

4. *Whether the suit of the plaintiff is not properly valued for the purpose of court fee and jurisdiction? OPD*

5. *Relief.*

8. Deciding issues No.1 to 3, the Court of the First Instance found that the plaintiff failed to prove ownership of Gian Chand, predecessor-in-interest of the father of the plaintiff. The plaintiff also failed to prove that the shop was given on license to Wazir Chand by her father. Rather case of the plaintiff stands falsified on the strength of the documents adduced in evidence by the defendants which proves that the defendant were in possession of the shop in question even prior to the year 1982-83 i.e. the year when the shop is claimed by the plaintiff to have been licensed and let out to Wazir Chand by her father. The Trial Court found that the defendants



RSA-1952-2025 (O&M)

proved that the shop in question was assessed to house tax in the year 1978-79 and notice thereof was served upon one Lakha Ram son of Sehjada Ram. The Trial Court, thus, dismissed the suit filed by the plaintiff.

9. The aforesaid findings stand affirmed by the Lower Appellate Court in appeal preferred by unsuccessful plaintiff.

10. Mr. Khunger, counsel appearing for the appellant emphatically argued that the Courts below erred in ignoring mutation in favour of Hira Lal sanctioned on the strength of the sale deed executed by Gian Chand in his favour. Counsel submits that Local Commissioner was appointed by the Trial Court. Local Commissioner visited and inspected the spot. His report was exhibited as Ex.P17. The Local Commissioner appeared as PW4 and proved the same. He submits that the Local Commissioner proved that 5 shops have been constructed on the spot. The shop in dispute is being run by Dasmesh Kumar-Surinder Kumar son of Pooran Chand in the name of Guru Jewellers. The shop is part of 5 shops on the spot. He, thus, submits that it being a case of misreading of evidence, the Courts below ended up returning a finding which is perverse and deserves to be set aside.

11. I have heard counsel for the appellant and have carefully gone through the records of the case.

12. The precise case of the plaintiff is based upon title derived by her father Hira Lal on the strength of sale deed executed by Gian Chand dated 06.09.1972. The plaintiff was, thus, required to prove title of the vendor of Hira Lal on 701 square feet of the land. Mr. Khunger does not dispute that in terms of jamabandi for the year 1977-78 Ex.P10, jamabandi



RSA-1952-2025 (O&M)

for the year 2007-08 Ex.P12 and jamabandi for the year 2012-13 Ex.P13, Gian Chand was recorded as owner of 1/4<sup>th</sup> share out of total property i.e. 303 square feet only. Faced with this situation, Mr. Khunger submits that there was one more Khewat wherein also Gian Chand was co-owner with others. It was with the consent of other co-owners that he sold 701 square feet in the present khewat in favour of father of the plaintiff. On being asked as to what evidence was adduced by the plaintiff to prove the same, he fairly admits that there is no such evidence on record that proves that Gian Chand was authorized by other co-sharers to sell the land beyond 303 square feet of the property. He also admits that there is nothing on record to prove that there was partition amongst co-sharers, whereby Gian Chand became owner to the extent of 701 square feet and was, thus, entitled to sell the same.

13. That apart, reliance placed upon report Ex.P17 is also misplaced. The Local Commissioner PW4 admitted that while he carried out the demarcation, he was not in possession of Musavi or field book or Patima or Aksh. Thus, in view thereof, this Court is of the opinion that the Courts below rightly discarded the report of the Local Commissioner. The plea raised by Mr. Khunger regarding mutation sanctioned in favour of Hira Lal rather cuts against prayer made by the plaintiff in the plaint. The entire case of the plaintiff is that mutation sanctioned on the basis of sale deed in favour of defendant No.1 does not confer any title. The aforesaid principles hold good for the plaintiff as well. The mutation sanctioned in favour of Hira Lal would not confer title on him until and unless the plaintiff can prove that father of Hira Lal was indeed competent to execute the sale deed qua 701



RSA-1952-2025 (O&M)

square feet of the land. The plea raised by the plaintiff regarding Wazir Chand having been inducted by Hira Lal as licensee after construction of the shop in the year 1982-83 also has fallen flat. In view of documentary evidence adduced by the defendants which show that the shop in question was in fact in possession of Lakha Ram and was assessed to property tax regarding which notices were served upon Lakha Ram and not upon Hira Lal. Once Hira Lal himself was not in possession of the shop in question, it is incomprehensible as to how he can induct Wazir Chand in possession on license. In view thereof, this Court finds that there is no scope to interfere in the present appeal. Pure findings of fact have been recorded by the Courts below which cannot be said to be perverse or misreading of evidence on record.

14. Finding that the present appeal involves no question of law, the same is ordered to be dismissed.

**( PANKAJ JAIN )**  
**JUDGE**

July 1, 2025  
Paritosh Kumar

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