



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

(112)

RSA-3406-2025 (O&M)Date of Decision:-**01.10.2025**

PRITAM SINGH

... Appellant

Versus

DARSHAN LAL AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWALPresent:- Mr. Raghav Chadha, Advocate
for the appellant.

VIRINDER AGGARWAL, J. (Oral)**CM-12417-C-2025**

The present application has been filed by the counsel for the appellant, seeking exemption from the requirement of mentioning the NOR number, on the ground that he has only recently been conferred a license by the Bar Council of Punjab and Haryana, Chandigarh, and, as a consequence, his name has not yet been incorporated in the official roll of Advocates.

2. Having carefully perused the application and considered the grounds advanced therein, the same is hereby allowed, subject to all just and equitable exceptions, and without prejudice to the counsel's future adherence to all statutory and procedural formalities as may be prescribed by the Bar Council or this Court.



RSA-3406-2025 (O&M)

By way of the present appeal, the appellant has challenged the judgment and decree passed by the learned First Appellate Court, Gurdaspur, whereby the suit filed by the respondents-plaintiffs was decreed, granting a mandatory injunction directing the appellant to deliver vacant possession of the suit property. The learned First Appellate Court reversed the well-reasoned judgment of the learned Civil Judge (Junior Division), Gurdaspur, thereby setting aside the findings recorded by the trial court.”

2.1. Factual background of the case is as under:-

“The respondents-plaintiffs filed the present suit seeking a mandatory injunction, praying for a direction to the petitioner-defendant to deliver vacant possession of the suit property. The suit arises out of the landlord-tenant relationship, as Banta Singh, the grandfather of the defendant, had taken the shop on rent from Chanan Kaur pursuant to a registered rent deed dated 08.11.1979. Chanan Kaur, who died issueless on 13.05.2010, executed a registered Will dated 02.12.1999 in favour of the plaintiffs, and subsequent mutation of her estate has been sanctioned in their favour. The plaintiffs seek possession of the shop to commence a business for the maintenance and welfare of plaintiff No.3. A formal notice terminating the tenancy was issued to the defendant on 21.07.2016; notwithstanding the same, the defendant has failed to vacate and deliver possession of the premises.”

3. The defendant contested the suit, categorically denying the existence of any landlord-tenant relationship between the parties and



disputing that Banta Singh executed the rent deed dated 08.11.1979 in favour of Chanan Kaur. The defendant further denied that the plaintiffs acquired ownership of the suit property through inheritance from Chanan Kaur. It is contended that the defendant is in lawful possession of the disputed shop, and the plaintiffs have no right, title, or interest therein. The receipt of the notice dated 21.07.2016 has also been specifically denied.

4. After a careful and detailed examination of the pleadings, documents, and submissions of the parties, this Court has framed the following issues for determination, with a view to comprehensively and judiciously adjudicating the rival claims and defenses raised in the present dispute, which are set out hereunder:-

- i. Whether plaintiffs are entitled for mandatory injunction as prayed for? OPP
- ii. Whether the suit is not maintainable ? OPD
- iii. Whether the plaintiffs have no locus standi to file the present suit? OPD
- iv. Relief.

5. After contest, the suit was dismissed by the learned Civil Judge, primarily on the ground that the plaintiffs had failed to prove the Will on record and, consequently, lacked the requisite *locus standi* to maintain the suit. In appeal, the learned First Appellate Court reversed these findings and allowed the appeal, thereby decreeing the suit in favour of the plaintiffs

6. Being dissatisfied by the judgment and decree rendered by the learned First Appellate Court, the appellant has instituted the present appeal.

7. I have heard the learned counsel for the appellant and considered his submissions in the context of the pleadings, evidence, and the



findings recorded by the Courts below. The record has been thoroughly examined to ascertain whether the impugned judgments and decrees suffer from any legal infirmity, error, or perversity that would justify interference in the present appeal.

8. As regards the scope of second appeal, it is now a settled proposition of law that in Punjab and Haryana, second appeals preferred are to be treated as appeals under Section 41 of the Punjab Courts Act, 1918 and not under Section 100 CPC. Reference in this regard can be made to the judgment of the Supreme Court in the case of *Pankajakshi (Dead) through LRs and others V/s Chandrika and others, (2016)6 SCC 157*, followed by the judgments in the case of *Kirodi (since deceased) through his LR V/s Ram Parkash and others, (2019) 11 SCC 317 and Satender and others V/s Saroj and others, 2022(12) Scale 92*. Relying upon the law laid down in the aforesaid judgments, no question of law is required to be framed.

9. Learned counsel for the appellant assails the judgment and decree primarily on the ground that the suit for mandatory injunction was not maintainable and that the plaintiffs ought to have filed a suit for possession. Reliance is placed on the law laid down by the Hon'ble Apex Court in **T.V. Ramakrishna Reddy v. M. Mallappa & Another, Civil Appeal No. 5577 of 2021**, decided on **07.09.2021**, wherein the Hon'ble Court followed the principles enunciated in **Anathula Sudhakar v. P. Buchi Reddy (Dead) by LRs, 2008 (4) SCC 594**, which held as under:-

To summarize, the position in regard to suits for prohibitory injunction relating to immovable property, is as under :

- (a) Where a cloud is raised over plaintiff's title and he does not have possession, a suit for declaration and possession, with or without



a consequential injunction, is the remedy. Where the plaintiff's title is not in dispute or under a cloud, but he is out of possession, he has to sue for possession with a consequential injunction. Where there is merely an interference with plaintiff's lawful possession or threat of dispossession, it is sufficient to sue for an injunction simpliciter.

- (b) As a suit for injunction simpliciter is concerned only with possession, normally the issue of title will not be directly and substantially in issue. The prayer for injunction will be decided with reference to the finding on possession. But in cases where de jure possession has to be established on the basis of title to the property, as in the case of vacant sites, the issue of title may directly and substantially arise for consideration, as without a finding thereon, it will not be possible to decide the issue of possession.
- (c) But a finding on title cannot be recorded in a suit for injunction, unless there are necessary pleadings and appropriate issue regarding title [either specific, or implied as noticed in *Annaimuthu Thevar* (supra)]. Where the averments regarding title are absent in a plaint and where there is no issue relating to title, the court will not investigate or examine or render a finding on a question of title, in a suit for injunction. Even where there are necessary pleadings and issue, if the matter involves complicated questions of fact and law relating to title, the court will relegate the parties to the remedy by way of comprehensive suit for declaration of title, instead of deciding the issue in a suit for mere injunction.



- (d) Where there are necessary pleadings regarding title, and appropriate issue relating to title on which parties lead evidence, if the matter involved is simple and straight-forward, the court may decide upon the issue regarding title, even in a suit for injunction. But such cases, are the exception to the normal rule that question of title will not be decided in suits for injunction.

10. A perusal of the portion of the judgment relied upon by the learned counsel for the appellant reveals that it is distinguishable and inapplicable to the facts of the present case. In the instant matter, the plaintiffs have not filed a suit for permanent injunction, but rather a suit for mandatory injunction, arising from the landlord-tenant relationship between the parties. This relationship was lawfully terminated by service of a notice under Section 106 of the Transfer of Property Act, and, consequent thereto, the suit for mandatory injunction filed by the plaintiffs is maintainable.

10.1 The learned counsel further contended that no landlord-tenant relationship existed between the parties and that the findings to that effect are unsustainable. However, examination of the record demonstrates otherwise. The sale deed (Ex.P2) in favour of Kartar Singh is dated 04.05.1963, and the rent deed (Ex.P3), executed by Banta Singh, grandfather of the appellant, in favour of Chanan Kaur is dated 08.11.1979. Both original documents, over thirty years old, were produced in Court from the custody of the plaintiffs. In terms of Section 90 of the Indian Evidence Act, 1872, there arises a presumption of due execution of these documents, which has not been rebutted.

10.2. Furthermore, the appellant is not claiming succession to Chanan Kaur, and the mutation of her estate has been sanctioned in favour of the



plaintiffs (Ex.P6), with the relevant entries in the *Jamabandi* also recorded in favour of the plaintiffs (Ex.P4 and Ex.P5). The presumption of truth is attached to such *Jamabandi* entries under Section 44 of the Punjab Land Revenue Act, 1887. Collectively, these documents establish beyond doubt the existence of a landlord-tenant relationship. The learned First Appellate Court rightly observed that, in accordance with Section 116 of the Indian Evidence Act, a tenant cannot dispute the title of the landlord during the continuance of the tenancy.

10.3. It is further established on record that the notice under Section 106 of the Transfer of Property Act was duly served upon the appellant-defendant, terminating the tenancy. In terms of Clause-(q) of Section 108 of the Transfer of Property Act, the lessee is obliged to deliver possession to the lessor upon termination of the tenancy. In these circumstances, the suit for mandatory injunction is clearly maintainable. Consequently, there is no illegality or perversity in the findings of the learned First Appellate Court. No substantial question of law arises, and the appeal, being devoid of merit, is hereby dismissed.

11. In view of the fact that the main case has now been adjudicated and finally decided on its merits, all pending miscellaneous application(s), if any, which were filed in connection with or arising out of the present proceedings, stand disposed of accordingly.

01.10.2025
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No