



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

RSA No.235 of 1991 (O&M)  
Decided on: 23.07.2025

Ravi Pashi and others ....Appellants

V/s

Rajeshwar Singh ....Respondent

**CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Present: Mr. Harsh Gupta, Advocate, for the appellants.

Mr. M.L. Sarin, Senior Advocate with  
Ms. Hemani Sarin, Advocate and  
Mr. Jagnoor Singh, Advocate, for the respondents.

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**VIKRAM AGGARWAL, J.**

This is defendants' appeal against the judgment and decree dated 05.01.1991 passed by the Court of Addl. District Judge, Gurdaspur, vide which the appeal filed by the plaintiff against the judgment and decree dated 10.04.1990 passed by the Court of Addl. Senior Sub-Judge, Pathankot, dismissing the suit for injunction, was allowed and the suit was decreed.

2. For the sake of convenience and clarity, parties shall be referred to as per their original status.

3. A suit for permanent injunction was instituted by the plaintiff (Rajeshwar Singh) against the defendants (Ravi Pashi, Anil Pashi, Smt. Raj Rani and Ashok Kumar Pashi), restraining them from taking forcible possession or interfering in any manner in the possession of the plaintiff over the land measuring 18 kanals (fully described in the plaint), situated in Village Daulatpur, Tehsil Pathankot, District Gurdaspur (at the relevant time, Pathankot was a Sub-Division of District Gurdaspur) (hereinafter referred to as the "suit property").



3.1 The case set up was that plaintiff had purchased the suit property from one Chaudhary Kesho Dass vide registered sale deed dated 10.03.1987 for a sale consideration of Rs.10,000/-. Possession of the suit property was delivered to the plaintiff, after which he was the owner in possession of the same. When he purchased the suit property, there were five dilapidated rooms without roof and doors in the suit property. After purchasing the same, he got the doors etc. repaired and roof was also laid. However, the defendants, being influential persons, were threatening to take forcible possession of the suit property.

4. The suit was opposed by the defendants. It was denied that the plaintiff was the owner in possession of the suit property. It was averred that the defendants had purchased some portion out of Khasra No.1124/491 and being co-sharers, the suit for permanent injunction was not maintainable. It was averred that the sale deed dated 10.03.1987 was a fictitious document and was without consideration. It was averred that the defendants had purchased 6 kanals out of Khasra No.1124/491 from Chaudhary Kesho Dass vide two registered sale deeds dated 29.11.1963 some construction of 5 shops had been raised along with the boundary wall. Sanction had also been obtained from PWD (B&R) and that they were in possession of the same.

5. Replication was filed, in which the contents of the written statement were denied and those made in the plaint were reiterated.

6. From the pleadings of the parties, following issues were framed by the trial Court:-

***“1. Whether the plaintiff is owner in possession of the suit land having purchased from Sh. Kesho Dass, vide registered sale deed dated 10.03.1987?OPP***

***2. Whether the plaintiff is entitled to the injunction prayed for?OPP***

***3. Whether the defendants are owners of the suit land?OPD***

***4. Whether the suit is collusive with Ch. Kesho Dass. OPD***



**4-A Whether the report of the Local Commissioner is liable to be set aside? OPO(D)**

**5. Relief?**

7. Parties led their respective evidence. The trial Court dismissed the suit filed by the plaintiff. He went in appeal, which was allowed, and the suit was decreed leading to the filing of the present appeal by the defendants.

8. I have heard learned counsel for the parties.

9. Learned counsel for the appellants-defendants has strenuously urged that the first appellate court erroneously decreed the suit. It has been submitted that the report of the local commissioner was vague. He further submits that the sale deed in favour of the plaintiff was a *sham* transaction as no consideration had passed.

9.2 Learned counsel has referred to the judgment passed by the trial Court and that passed by the first appellate Court and has submitted that the judgment of the first appellate Court is not sustainable.

10. *Per contra*, learned Senior Counsel representing the respondent-plaintiff has submitted that there is no illegality in the judgment of the first appellate Court. It has been argued that at the time of admission of the instant appeal, an order of status quo as regards possession was passed, which has been continuing for the last 34 years. Learned Senior Counsel submits that till today, no partition proceedings have been initiated and that once at the instance of the appellants/defendants, status quo regarding possession was ordered to be maintained, the same can be ordered to be continued till partition proceedings are carried out and shares are finally decided.

11. I have considered the submissions made by learned counsel for the parties and have perused the record.



12. 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.

13. Plaintiff laid claim on the suit property on the basis of registered sale deed dated 10.03.1987. *Per contra*, defendants claimed to have purchased 6 kanals of land out of the same khasra number vide two registered sale deeds. There are rival claims as regards possession. The trial Court proceeded on the premise that the sale deed in favour of the plaintiff was not a valid document and that the report of the local commissioner was vague.

13.1 The first appellate Court rightly did not go into the question of title and based upon the report of the local commissioner, issued injunction in favour of the plaintiff.

13.2 Concededly, when the appeal was preferred, status quo as regards possession was ordered to be maintained vide order dated 29.01.1991. This was in the present appeal, which was filed by the defendants. Thereafter, the appeal was admitted on 15.04.1991 and stay order was ordered to continue. Till today, status quo as regards possession is being maintained. It is, therefore, clear that since the parties have been litigating for the last so many years, they are not content with joint



possession of all co-sharers and they are insisting on their own possession over particular portions of land. It, therefore, means that there are rival claims as regards possession.

13.3 It would also be relevant to notice here that during the course of arguments, it was brought to the notice of this Court that partition proceedings have not been initiated by either side till date.

14. In view of the above, this Court deems it appropriate to dispose of the instant regular appeal, directing the parties to maintain status quo as regards possession till their shares are settled in the partition proceedings.

Ordered accordingly.

Pending application(s), if any, shall also stand disposed of.

**(VIKRAM AGGARWAL)**  
**JUDGE**

**July 23, 2025**

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No