



126

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

**RSA-93-2022 (O&M)  
Date of decision : 22.07.2025**

MUNICIPAL COUNCIL, REWARI

....Appellant

Versus

RAMESH CHAND AND OTHERS

...Respondents

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

Present : Mr. Dharampal Saini, Advocate  
for the appellant.

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

**CM No.221-C of 2022**

This is an application filed under Section 151 CPC seeking condonation of delay of 2435 days in filing the instant appeal.

For the reasons recorded in the application, this Court is satisfied that the applicant/appellant has made out a sufficient cause for condonation of delay.

Consequently, the present application is allowed. The delay of 2435 days in filing the instant appeal is hereby condoned.

**RSA-93-2022**

Defendant No.1 is in appeal. For convenience and to avoid confusion, the parties hereinafter are referred to by their original position in



the suit, i.e., the appellant as defendant No.1; respondents No.1 to 3 as plaintiffs, and respondents No.4 & 5 as defendants No.3 & 4.

2. Plaintiffs filed suit seeking decree of permanent injunction claiming themselves to be tenants in shop bearing municipal numbers 2032-33, 2031, 2030 depicted as shops No.1, 2 & 3 in the site plan appended to the plaint.

3. As per the plaintiffs, they were tenants under one Kalu Ram son of Lalji Ram. The plaintiffs thus claimed to be in possession of shops for more than 30 years. They further pleaded that they had taken the area shown with red colour on *tehbazari* from the Municipal Council, Rewari which was granted up to 31.03.2004. The *Tehbazari* having been cancelled in December, 2003, plaintiffs vacated the portion of the road. Despite having vacated *Tehbazari* portion, defendants are threatening to demolish the area marked as A, B, C, D without having right, title or interest in the said property. Thus, the plaintiffs claimed that being in possession of the shop for more than 30 years and the same being in existence and constructed after getting the site plan sanctioned from Municipal Committee, Rewari on 23.03.1956, they are entitled for decree of permanent injunction against threat of forcible dispossession from defendants.

4. Defendants No.1 to 3 filed written statement claiming that the plaintiffs are licensees over the suit property. *Tehbazari* having been revoked, the plaintiffs have no right to cover the *Tehbazari* area by making *pucca* construction and the said encroachment on public street, needs to be



removed and demolished. As per the respondents, the plaintiffs have made encroachment on the area measuring 28.5/8 ft. and the same is required to be removed in public interest.

5. On the basis of the pleadings suit filed by the plaintiffs was put to trial, framing following issues :

- “1. Whether the plaintiffs are tenant of the shop bearing house tax nos. 2032, 2031, 2030 nos. 1.2 and 3 under Sh. Kalu Ram son of Lalji Ram the owner vide rent notes dated 29.12.1967, 5.5.1978 and 9.4.80 for the last more than 30 years openly, peacefully and without any interruption: OPP
2. Whether the plaintiff is entitled for injunction as prayed for? OPP
3. Whether the plaintiffs have taken the *Tehbazari* from Municipal Committee, Rewari for the area of 13x6 for Takhet and 13x6 open tin shed and as such are merely otherwise over the suit property? OPD
4. Whether the suit is not maintainable for want of any locus standi and cause of action in favour of plaintiff? OPD
5. Whether the plaintiffs have encroached the public street by raising illegal construction thereupon? OPD
6. Relief”

6. While answering issues No.1, 2, 3 and 5, the Trial Court found that it stands proved that there is a drain outside the shop and beyond the said drain, towards shop the pole is installed. Building expert was examined by the plaintiffs. Report was proved on record as Exhibit P-10. As per the same, the construction was an old one and the age of building is reported to be around 60-70 years. The Trial Court thus found that the plaintiffs



successfully proved that they are in possession of the constructed area. The defendants to the contrary failed to prove that the construction was raised over the *Tehbazari* area. The Trial Court accordingly decreed the suit filed by the plaintiffs.

7. The aforesaid findings stand affirmed by the Lower Appellate Court.

8. Counsel appearing for the appellant-Municipal Council has assailed the findings recorded by the Courts below. He submits that there is ample evidence to prove that the construction was raised before abolition of *Tehbazari* and thus the findings recorded by the Courts below cannot be sustained.

9. Having heard counsel for the appellant and after carefully going through records of the case, this Court finds that the issue is not whether the construction was raised before the abolition of *Tehbazari* or after the abolition of *Tehbazari*. The precise issue is :

*“Whether the land beneath the constructed area possessed by the plaintiffs as tenants, is Tehbazari area or not?”*

10. The Courts below after considering the entire evidence on record came to the conclusion that the width of road in front of shop is around 54 ft. which is more or less equal to the width of the road in the entire lane i.e. 49 ft. The road and the constructed area is separated by a drain which runs along the street in front of the shops possessed by the



plaintiffs. The poles installed are beyond the drain towards shops. Apart from that, the Courts also held that the age of the construction having been proved to be more than 60-70 years, the plaintiffs are entitled for injunction. Pure findings of fact have been recorded by the Courts below after analysing the entire evidence threadbare. There is nothing on record to prove that the area beneath the construction, was ever *Tehbazari* area as claimed by the defendants.

11. Finding no merits in the present appeal, the same is ordered to be dismissed.

**July 22, 2025**

**Dpr**

**(Pankaj Jain)**

**Judge**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No