



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

**RSA-1021-2017 (O&M)
Date of decision : 29.04.2025**

JUG LALAppellant

Versus

KRISHAN KUMAR JANGURespondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. R.N. Lohan, Advocate
for the appellant

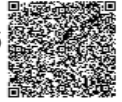
Mr. Gaurav Tyagi, Advocate
for the respondent.

PANKAJ JAIN, J. (ORAL)

Plaintiff is in second appeal.

2. For convenience, the parties hereinafter are referred to by their original position in the suit i.e. the appellant as the plaintiff and the respondent as the defendant.

3. Plaintiff filed suit for possession claiming that the shop in question was let out to the defendant by the plaintiff in the month of July, 2007 at a monthly rent of Rs.3,000/-. The defendant paid rent till October, 2008 and thereafter stopped the payment of rent. Instead of clearing the arrears of the rent, defendant further illegally came into possession of the adjacent shop.



4. The suit was contested by the defendant denying the ownership of the plaintiff. Plaintiff claimed that he is exclusive owner in possession of the property on the strength of agreement to sell dated 12.08.2008 executed by Naresh Kumar son of plaintiff. It was further claimed by the defendant that suit for specific performance with further relief of permanent injunction titled as ‘Krishan Kumar Jangu vs. Naresh Kumar’, is pending before the Court of competent jurisdiction.

5. Court of the First Instance put suit filed by the plaintiff to trial, framing following issues:

- “1. Whether the plaintiff is entitled to a decree for possession as prayed for? OPP
2. Whether the suit of the plaintiff is not maintainable? OPD
3. Whether the plaintiff has concealed the true and material facts from this Court? OPD
4. Whether the plaintiff has no cause of action and no locus standi to file the present suit? OPD
5. Whether the plaintiff is estopped from filing the suit by their own act, conduct, acquiescence, laches, omission and commission? OPD
6. Relief.”

6. Both the Courts below found that the plaintiff having failed to prove his ownership over the suit property, is not entitled to decree of possession.

7. Mr. Lohan while assailing the impugned judgment & decree passed by the Courts below submits that the Courts have ignored Exhibit P-2

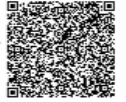


i.e. *jamabandi* for the year 2000-2001, which shows that the plaintiff is owner in possession of the suit property. He further submits that there is a vital admission on part of defendant admitting that he had paid rent up to the month of October, 2008. He submits that in these circumstances, the findings recorded by the Courts below, cannot be sustained. Reliance is placed upon dismissal of the suit filed by defendant seeking possession by way of specific performance of the agreement to sell dated 12.08.2008.

8. Per contra, counsel for the respondent/defendant submits that the plaintiff having failed to prove his ownership over the suit property, Courts below have rightly non-suited him and dismissed the suit. Pure findings of fact have been recorded by the Courts below. He submits that re-appreciation of evidence in the absence of there being any question of law involved in the present appeal, is beyond the scope of Section 41 of the Punjab Courts Act.

9. I have heard counsel for the parties and have carefully gone through records of the case.

10. In the considered opinion of this Court, the argument raised by counsel for the appellant gets demolished by the suggestion put to defendant during cross-examination. It was suggested to the defendant by the plaintiff himself that the shop in question was let out to him by son of the plaintiff i.e. Naresh Kumar. The suggestion is enough to prove the entire case of the defendant that in fact, plaintiff has no right, title or interest over the suit



property. It is his son Naresh Kumar, who let out the shop to defendant and thereafter entered into an agreement to sell with him.

11. In view of above, finding no merit in the present appeal, the same is ordered to be dismissed.

April 29, 2025

Dpr

(Pankaj Jain)

Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No