



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

**RSA-261-1999 (O&M)
Reserved on :- 16.04.2026
Date of Pronouncement:-21.04.2026
Uploaded on:- 21.04.2026**

Satpal

... Appellant

Versus

Dilbagh Singh and Others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Mr. S.K. Garg Narwana, Senior Advocate with
Mr. Shubham Goyal, Advocate
for the appellant.

Mr. A.S. Virk, Advocate
for the respondents No.1 to 3.

VIRINDER AGGARWAL, J.

1. The appellant/defendant has preferred the present Regular Second Appeal (hereinafter to be referred as 'RSA'), being aggrieved by the judgment and decree dated 16.12.1998 passed by the learned Additional District Judge, Ambala whereby the well-reasoned judgment and decree dated 04.05.1998 of the learned Civil Judge (Junior Division), Ambala was reversed . The appellant seeks restoration of the Trial Court's decree, contending that the impugned judgment suffers from perversity,



errors of law, and misappreciation of evidence, resulting in grave injustice, and is thus liable to be set aside.

2. The sequence of events antecedent to, and culminating in, the present appeal may be succinctly set out as under:-

“That the plaintiffs instituted the present suit for pre-emption on 24.04.1995, asserting that Smt. Kishni, daughter of Mangat Ram, and Hakam Singh, son of Gurcharan Singh, were the joint owners of land measuring 13 Kanal 11 Marlas, as detailed hereinabove.

That Hakam Singh, being a co-sharer, had alienated his one-half share in the aforesaid land in favour of the plaintiffs by way of a duly registered sale deed dated 26.11.1993. The remaining co-sharer, Smt. Kishni, having since deceased, her estate devolved upon Bachna Ram and Smt. Devo (impleaded as defendant Nos. 1 and 2, respectively) and Raj Kumar, a minor. Bachna Ram held one-half share out of the estate of Smt. Kishni, while Smt. Devo and Raj Kumar jointly inherited the remaining one-half share in equal proportions.

That defendant Nos. 1 and 2, being vendors, executed a registered sale deed dated 20.03.1995 in favour of defendant No. 3, thereby transferring land measuring 5 Kanal 1 Marla out of their share for a sale consideration of ₹1,26,250/-.

That the plaintiffs, claiming to be tenants in possession of the suit land, and alleging that the impugned sale was effected without notice to them, asserted their superior right of pre-emption. Despite having called upon the defendants to



honour such right, no compliance was forthcoming, thereby compelling the plaintiffs to institute the present suit.”

3. Upon service of summons, the defendants appeared and the suit was contested by all the defendants. Defendant Nos. 1 and 2 (vendors), in their joint written statement, admitted the execution of the sale in favour of defendant No. 3. It was further pleaded that Raj Kumar, a minor, had also consented to sell his share to defendant No. 3, and an application seeking requisite permission from the competent court had already been filed, with the sale deed to be executed upon grant of such permission. The defendants disputed the plaintiffs' alleged possession and tenancy, contending that the khasra girdawari entries in favour of the plaintiffs were fabricated in collusion with the Halka Patwari, and that proceedings for correction had been initiated before the Court of the Assistant Collector II Grade, Ambala. It was further averred that defendant No. 3, upon purchase, took possession of the land, planted approximately 120 guava trees, and installed a tube-well, incurring expenditure in the range of ₹50,000/- to ₹60,000/-.

3.1. Defendant No. 3 (vendee), in his separate written statement, adopted substantially similar pleas, asserting his lawful possession over the suit land consequent to the purchase from defendant Nos. 1 and 2, and denying both the possession and tenancy of the plaintiffs.

3.2. The suit was further resisted on preliminary objections, inter alia, of limitation, lack of locus standi, estoppel, and non-compliance with the statutory requirement of deposit of one-fifth of the pre-emption amount.



4. After a careful and exhaustive review of the pleadings, documents, and submissions of both parties, the trial Court framed issues for adjudication to enable a clear, accurate, and comprehensive determination of the respective claims and defenses, which are as under:-

1. *Whether the plaintiffs have got superior right of pre-emption over the suit land? OPP*
2. *Whether the plaintiffs have deposited 1/5th pre-emption money in the court ? OPP*
3. *Whether the suit of the plaintiffs is time barred ? OPD*
4. *Whether the plaintiffs have no locus standi to file the present suit ? OPD*
5. *Whether the plaintiffs are estopped by their own act and conduct from filing the Present suit ? OPD*
6. *Whether the suit of the plaintiffs is bad for proper description of the suit property? OPD*
7. *Relief.*

5. Both parties were afforded adequate opportunity to lead evidence in support of their respective cases. Upon conclusion of trial and hearing learned counsel, the learned Trial Court dismissed the suit of the plaintiff.

5.1 Aggrieved thereby, the plaintiffs preferred an appeal, which came to be allowed by the learned First Appellate Court.

6. Assailing the findings of the learned First Appellate Court, the appellant/defendant instituted the present appeal. Upon admission, notice was issued and the respondents entered appearance through counsel and contested the same. The records of the courts below are available for perusal.



7. I have heard learned counsel for the parties at length and have carefully considered their submissions in light of the pleadings, evidence on record, and the findings returned by the courts below.

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 contended that the learned First Appellate Court has failed to properly appreciate the law as well as the evidence on record. It is submitted that the impugned judgment proceeds on mere surmises and conjectures, and the findings recorded therein are self-contradictory and internally inconsistent. At one stage, the learned First Appellate Court itself has observed that any alteration in the Khasra Girdawari made in violation of the prescribed procedure is liable to be ignored; however, despite recording the said categorical finding, it has subsequently placed reliance upon the Khasra Girdawari in favour of the respondent-plaintiff, notwithstanding the fact that the same was admittedly



altered without adherence to the due procedure and the instructions issued by the Financial Commissioner.

9.1. It is further contended that the learned First Appellate Court has reversed the well-reasoned findings of the learned Trial Court on wholly untenable and flimsy grounds, while ignoring the cogent, consistent, and convincing evidence adduced by the appellants-defendants. The appellants-defendants had categorically established their possession over the suit property pursuant to its purchase and had led evidence to show substantial acts of ownership, including plantation of guava trees, installation of a tubewell, and erection of a tokka machine. It is, therefore, prayed that the judgment and decree passed by the learned First Appellate Court be set aside and that of the learned Trial Court be restored.

10. Per contra, learned counsel for the respondent-plaintiff has submitted that the findings recorded by the learned First Appellate Court are based on a proper appreciation of the pleadings as well as the evidence on record. It is contended that the respondent-plaintiff has successfully established that they were in possession of the suit property as tenants even prior to the sale in question, and continued to remain in possession at the time of institution of the suit as well as on the date of decree. On the aforesaid premises, it is prayed that the appeal be dismissed and the judgment and decree passed by the learned First Appellate Court be affirmed.

11. The learned Trial Court recorded a categorical finding that the plaintiff examined only his attorney, Balwant Singh, and relied upon Khasra Girdawari Ex. P2. As per Ex. P2, the entry regarding possession of



the suit land was shown to have been changed in favour of the plaintiffs w.e.f. 01.11.1993 as Gair Marusi, and the said document pertains to the period 01.11.1993 to 02.04.1997.

11.1. The attorney of the plaintiff admitted that two of his sons are employed at Yamuna Nagar and the third is in the teaching profession. No documentary evidence such as rent receipts or a rent agreement with the previous owner was produced on record. The relevant Jamabandi entries show possession with the recorded owners, whereas the plaintiff's case of continuous tenancy for over 15 years remains unsubstantiated by any evidence of payment of Batai or Chakota during the said period.

11.2. On the other hand, the defendants led substantial evidence to demonstrate possession and improvements over the suit property, including plantation of approximately 120 guava trees, installation of a tubewell, and construction of a kotha. Documentary evidence, namely Ex. D1, Ex. D2, Ex. DW3/1, and Ex. DW5/1, was produced to prove purchase of tubewell machinery and construction material including bricks.

11.3. The learned Trial Court placed reliance upon the judgment in *Amal Kumar and Others vs. Bhunder Singh and Others, 1976 PLJ 26*, wherein it was held that any change in Khasra Girdawari made without following the procedure prescribed under the instructions of the Financial Commissioner is illegal and such entries are liable to be treated as null and void at the stage of attestation of Jamabandi or earlier. Similar reliance was placed upon *Bachan Singh vs. Sher Singh & Others, 1994 PLJ 30*, wherein it was reiterated that unauthorized alteration of Khasra Girdawari



entries is impermissible in law, and accordingly it was held that the plaintiffs failed to prove their possession.

11.4. However, the learned First Appellate Court, while noticing in paragraph 22 that any change in Khasra Girdawari made in violation of the instructions of the Financial Commissioner is bad in law and void, still proceeded to rely upon the same disputed entry. It was further observed that no independent evidence of payment of Batai had been produced by the plaintiff. Yet, in paragraphs 25 and 26, the learned First Appellate Court placed reliance upon a recital in the sale deed regarding delivery of possession to the vendee, while simultaneously observing absence of any Rojnamcha entry evidencing mutation of possession.

11.5. Contrarily, reliance was placed upon plaintiffs tendering Khasra Girdawari showing possession from 01.11.1993 onwards and the testimony of Balwant Singh that there is no practice of issuing rent receipts. It is recorded that there is no evidence of transfer of possession by the owners in favour of the vendee, nor any corresponding entry in the revenue record, whereas ignoring the fact that there is no entry with regard to owner ever delivering possession to plaintiff either.

11.6. Despite this, the learned First Appellate Court concluded in favour of the plaintiff primarily on the basis of the disputed Khasra Girdawari entry and the dismissal of the defendants' application for correction thereof, which is stated to be pending in appeal before the Collector. The Court further held that such dismissal supported the plaintiff's possession.



11.7. In doing so, the learned First Appellate Court ignored the testimonies of independent witnesses produced by the defendants. DW-4 Gurnam Singh, a mason, categorically deposed that he had worked on the suit land and constructed a tubewell, kotha, and residential room, and further stated in cross-examination that Satpal was in possession of the suit land. However, his testimony was discarded solely on the basis of the Khasra Girdawari entry in favour of the plaintiff.

11.8. The First Appellate Court also failed to consider that neither the owners nor any witness had stated that possession was ever delivered to the vendee or the plaintiffs. In absence of any Rojnamcha entry evidencing such delivery, the inference drawn in favour of the plaintiffs is wholly unsustainable. The Khasra Girdawari entry Ex. P2, having been altered without compliance of mandatory instructions issued by the Financial Commissioner—particularly without notice to the affected landowners and without attestation by the Lambardar or Panch—stands vitiated in law.

12. As per settled procedure, any proposed change in revenue entries requires prior written notice to affected persons and proper verification; non-compliance renders such entries void ab initio. In the present case, the mandatory procedure was admittedly not followed, rendering Ex. P2 unreliable and inadmissible for determining possession.

12.1. Further, the plaintiff's assertion of tenancy for 15 years remains unsubstantiated by any rent receipts, rent agreement, or evidence of cultivation. Jamabandi entries consistently reflect possession of the recorded owners. There is also no evidence of actual agricultural activity



by the plaintiffs. As rightly observed by the learned Trial Court, two plaintiffs are employed at Yamuna Nagar and one is in the teaching profession, which further undermines the plea of cultivation. No J-Forms or sale records through commission agents have been produced to establish agricultural yield or cultivation.

13. It is also well-settled that mere entry as Gair Marusi in revenue records, without proof of payment of rent or execution of rent agreement, is insufficient to confer tenancy rights. This principle has been consistently reiterated in *Om Parkash and Another vs. Dharampal and Another*, 2025(4) Law Herald P&H 2806, and *Sher Singh vs. Amar Singh*, 2019(4) PLR 58, wherein it has been held that revenue entries by themselves do not establish tenancy unless supported by independent evidence of rent or cultivation and it has been held as under:-

“The fact cannot be lost sight that in the States of Punjab and Haryana the entry in the revenue record qua possession in favour of third person as “Gair Marusi” or in any capacity whatsoever of whose ownership vest in some other persons are fictitious and stay entries in the absence of any rent note or rent receipt, thus they are not liable to look into or given any effect.”

14. Having regard to the admitted position that the Khasra Girdawari entry in favour of the respondent-plaintiff was altered in contravention of the mandatory instructions issued by the Financial Commissioner, it is well-settled that such entries, having been made in breach of the prescribed procedure, are void ab initio and liable to be ignored in law. In spite of the aforesaid settled legal position, the learned First Appellate Court has gravely erred in placing reliance upon the said



defective entry Ex. P2 and, on that sole basis, has discarded the cogent, consistent, and reliable evidence adduced by the appellants-defendants.

14.1 The impugned judgment, thus, suffers from a patent error of appreciation of evidence, inasmuch as the learned First Appellate Court has misread the material on record and has erroneously reversed the well-reasoned findings returned by the learned Trial Court, which were based on a correct and holistic appraisal of the entire evidence. The findings recorded by the First Appellate Court are, therefore, unsustainable in law and on facts. Consequently, the appeal deserves to be **allowed**, and the judgment and decree passed by the learned First Appellate Court are hereby set aside, while those rendered by the learned Trial Court are restored.

15. Since the principal lis stands finally adjudicated on merits, all ancillary, interlocutory, or pending applications, if any, stated to be subsisting on the record, shall, by necessary implication, stand disposed of, no further orders being required thereon.

21.04.2026
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No