

PUNJAB AND HARYANA HIGH COURT

SINGLE BENCH

(Before : Deepak Gupta, J.)

KALAWATI AND ANOTHER

Vs.

AJIT SINGH AND ANOTHER

RSA-2024-2026 (O&M)

Decided on : 15-07-2026

Civil Procedure Code, 1908 — Section 100 — Regular Second Appeal — Concurrent findings of fact — Scope of interference — Jurisdiction under Section 100 CPC confined to substantial questions of law; reappreciation of evidence or substitution of a different factual view impermissible merely because another view is possible — Appellants failed to show that material evidence was ignored, inadmissible evidence relied upon, or that concurrent findings suffered from perversity — Second appeal dismissed. [Paras 8, 25, 26, 27]

Punjab Land Revenue Act — Revenue entries — Evidentiary value — Presumption of correctness — Though not documents of title, revenue entries constitute relevant evidence of possession and carry a rebuttable presumption of correctness which cannot be displaced by mere assertions — Uninterrupted chain of Jamabandis, Khasra Girdawaris and Rapat Roznamcha spanning three decades held to establish plaintiffs' continuous possession as gair marusi tenants. [Paras 9, 10, 11, 12, 13]

Possession — Suit for permanent injunction — Settled possession — Protection against forcible dispossession by owner — Ownership and possession are distinct concepts; even a true owner cannot dispossess a person in settled possession except by due process of law — Registered sale deed in favour of defendants held insufficient by itself to entitle them to forcible dispossession, more so where the deed's own recital acknowledged plaintiffs' predecessor's continuing possession and contemplated separate delivery of possession. [Paras 14, 15, 17]

Precedent — Settled possession — Protection even against rightful owner — Following Rame Gowda v. M. Varadappa Naidu, (2004) 1 SCC 769, and Krishna Ram Mahale v. Shobha Ram Venkat Rao, (1989) 4 SCC 131, held that a person in settled possession, even a tenant, cannot be

dispossessed except in accordance with law, and the rightful owner cannot take law into his own hands. [Para 16]

Evidence Act, 1872 — Photographs and inspection reports — Proof — Unproved documents carry no evidentiary value — Spot inspection report relied upon by defendants had not attained finality, being under challenge and remanded before revenue authorities, and could not displace long-standing revenue entries — Photographs remained unproved for want of examination of photographer and failure to identify location with suit khasra number. [Paras 19, 20]

Tenancy — Dispute regarding mode of rent payment — Effect on tenancy status — Challenge to correctness of entry regarding batai-tihai (mode of rent) does not obliterate the tenant's possessory status reflected in revenue records; such dispute may found a claim inter se landlord and tenant but does not authorize dispossession except through the procedure prescribed under tenancy law. [Paras 21, 22]

Suit for injunction simpliciter — Maintainability where title not in issue — Suit founded solely on existing possession and threat of forcible dispossession, without seeking declaration of ownership or disputing defendants' title, held maintainable as a simpliciter suit for injunction based on possession where title is not the principal issue. [Para 23]

Counsel for Appearing Parties

Mr. Rupender Singh Ghanghas, Advocate for the Appellants.

JUDGMENT

Deepak Gupta, J. (Oral) - The defendants are in Regular Second Appeal against the concurrent judgments and decrees passed by both the Courts below, whereby the suit instituted by the respondents-plaintiffs for permanent injunction has been decreed.

2. The respondents-plaintiffs instituted a suit seeking a decree of permanent injunction restraining the appellants-defendants from interfering in their peaceful possession over land measuring 3 kanal 9 marla comprised in Rectangle No.55 Killa No.25/2, situated in village Sirsa Ghoghra, Tehsil and District Bhiwani. It was pleaded that they and their predecessor-in-interest had been in continuous possession over the suit property as gair marusi tenants for more than four decades. According to the plaintiffs, although the appellants had subsequently purchased land measuring 3 kanal 1 marla forming part of the larger khasra number, actual possession was never delivered to them and they had started threatening to dispossess the plaintiffs forcibly without recourse to law.

3. The suit was contested by the defendants. While admitting the execution of the registered sale deed in their favour, they pleaded that they were not merely owners but were also in actual physical possession of the purchased land. It was alleged that the suit property had become part of their residential complex, that the plaintiffs had

manipulated the revenue entries in their favour and that proceedings for correction of Khasra Girdawari were already pending before the revenue authorities. It was, thus, prayed that the suit be dismissed.

4. On the basis of the pleadings, the trial Court framed the necessary issues and, after appreciating the oral as well as documentary evidence adduced by the parties, decreed the suit vide judgment and decree dated 14.03.2024. The trial Court held that the plaintiffs had succeeded in establishing their continuous possession as gair marusi tenants on the strength of long-standing revenue entries, whereas the defendants had failed to prove that possession had ever been delivered to them after execution of the sale deed. Consequently, the defendants were restrained from interfering in the plaintiffs' possession except in due course of law, while clarifying that the decree would not affect the pending proceedings before the revenue authorities regarding correction of revenue entries.

5. Aggrieved thereof, the defendants preferred an appeal before the learned District Judge, Bhiwani. The first appellate Court, upon an independent re-appraisal of the entire evidence, affirmed the findings recorded by the trial Court. It held that the consistent revenue record spanning more than three decades established the plaintiffs' possession; the recital contained in the defendants' own sale deed acknowledged the possession of the plaintiffs' predecessor-in-interest; the spot inspection report relied upon by the defendants had not attained finality as objections thereto were pending before the competent revenue authorities; and the defendants had failed to produce any reliable evidence establishing that physical possession had ever been delivered to them. Accordingly, the appeal was dismissed on 01.04.2026.

6. Assailing the above concurrent findings, learned counsel appearing for the appellants has primarily contended that both the Courts below have committed a patent error in relying upon revenue entries for recording a finding of possession. It is argued that the plaintiffs themselves disputed the correctness of the entry regarding batai-tihai and, therefore, could not simultaneously claim protection as tenants. It is further submitted that the appellants, being purchasers under a registered sale deed, are owners in possession of the suit property and that the spot inspection report and photographs sufficiently established their possession. According to learned counsel, the plaintiffs ought to have sought a declaration instead of maintaining a simpliciter suit for injunction.

7. I have considered the submissions advanced by learned counsel for the appellants and have perused the judgments passed by both the Courts below.

8. The only controversy requiring consideration is whether the concurrent decree protecting the possession of the plaintiffs suffers from any illegality warranting interference under Section 100 of the Code of Civil Procedure.

9. At the outset, it deserves to be noticed that both the Courts below have concurrently recorded a finding that the plaintiffs have succeeded in proving their settled possession over the suit property as gair marusi tenants. Such finding is essentially one of fact based upon appreciation of evidence.

10. The plaintiffs examined Ajit Singh as PW-1, whose testimony regarding continuous possession remained substantially unshaken during cross-examination. More importantly, the plaintiffs produced an uninterrupted chain of Jamabandis commencing from the year 1988-89 till 2018-19 along with the Khasra Girdawaris and Rapat Roznamcha. These revenue records consistently depict first Lalji, predecessor-in-interest of the plaintiffs, and thereafter the plaintiffs themselves, as gair marusi tenants over the suit property.

11. The presumption attached to entries in revenue records under the Punjab Land Revenue Act is undoubtedly rebuttable. However, such presumption cannot be displaced by mere assertions. It is well settled that although revenue entries are not documents of title, they constitute relevant evidence regarding possession and continue to enjoy a presumption of correctness until rebutted by cogent evidence.

12. In **Narbada Devi Gupta v. Birendra Kumar Jaiswal and another, (2003) 8 SCC 745**, the Hon'ble Supreme Court held that revenue entries are relevant for deciding possession though they are not proof of title. Similar view has been reiterated in **Prahlad Pradhan and others v. Sonu Kumhar, (2019) 10 SCC 259**.

13. In the present case, the defendants failed to produce any convincing evidence capable of dislodging the consistent revenue record extending over more than three decades.

14. Learned counsel for the appellants vehemently argued that the appellants are owners of land measuring 3 kanal 1 marla by virtue of registered sale deed dated 09.09.2008 and, therefore, injunction could not have been granted against the true owners.

15. The submission cannot be accepted. Ownership and possession are distinct legal concepts. Even a true owner cannot dispossess a person in settled possession otherwise than by due process of law. A person in settled possession, even if a tenant or a person having possessory rights, is entitled to protect such possession against forcible dispossession.

16. The Constitution Bench judgment in **Rame Gowda (Dead) by LRs. v. M. Varadappa Naidu (Dead) by LRs., (2004) 1 SCC 769** authoritatively holds that settled possession cannot be disturbed except by recourse to law and even the rightful owner cannot take law into his own hands. Likewise, in **Krishna Ram Mahale (dead) by his LRs v. Mrs. Shobha Ram Venkat Rao, (1989) 4 SCC 131**, the Supreme Court held that a person in settled possession cannot be dispossessed otherwise than in accordance with law.

17. Thus, the ownership of the appellants by itself did not entitle them to dispossess the plaintiffs forcibly. In fact, the sale deed itself considerably weakens the defence set up by the appellants. The sale deed specifically records that Lalji was already continuing as gair marusi over the property and further recites that actual possession would be obtained by the purchasers from Lalji separately. Such recital clearly demonstrates that physical possession had not been delivered to the purchasers simultaneously with execution of the sale deed.

18. Neither before the trial Court nor before the first appellate Court were the defendants able to establish as to when, in what manner and under what authority they subsequently obtained possession from Lalji or from the plaintiffs.

19. The entire defence of possession sought to be built around the spot inspection report also does not advance the appellants' case. The Courts below have concurrently noticed that the report relied upon by the defendants had itself been challenged before the competent revenue authorities and objections thereto were admittedly pending. Subsequently, the matter had even been remanded for fresh consideration. Therefore, the said report had not attained finality and could not have displaced the long standing revenue entries showing possession of the plaintiffs.

20. The reliance placed upon certain photographs was also rightly rejected by both the Courts below since neither the photographer was examined nor was the location shown in the photographs identified with the suit khasra number. Such photographs, therefore, remained unproved in accordance with the Evidence Act and carried no evidentiary value.

21. Another submission raised by learned counsel for the appellants is that since the plaintiffs questioned the correctness of the entry regarding batai-tihai, they could not simultaneously claim tenancy.

22. The contention is misconceived. The challenge to the mode or extent of payment of rent does not obliterate the status of possession reflected in the revenue record. At best, such controversy may give rise to disputes inter se landlord and tenant regarding rent or tenancy rights. It does not authorize the owner to dispossess the tenant except in accordance with the procedure prescribed under the applicable tenancy laws.

23. Equally meritless is the contention that the plaintiffs ought to have filed a suit for declaration. The present suit was founded solely upon existing possession coupled with the threat of forcible dispossession. The plaintiffs never sought declaration of ownership nor disputed the title of the appellants to the extent reflected in the sale deed. The relief claimed was only for protection of existing possession. A simpliciter suit for injunction based upon possession is maintainable in law where title is not the principal issue.

24. Both the Courts below have concurrently appreciated the entire oral and documentary evidence and have recorded findings that the plaintiffs and their predecessor-in-interest remained in continuous possession as gair marusi tenants; that the defendants failed to prove that possession had ever been delivered to them; that the revenue entries consistently supported the plaintiffs' possession; and the defendants cannot dispossess the plaintiffs except by adopting due process of law. These are pure findings of fact based upon evidence.

25. The jurisdiction of this Court under Section 100 CPC is confined only to substantial questions of law. Re-appreciation of evidence or substitution of a different factual view is impermissible merely because another view is possible.

26. In the present case, learned counsel for the appellants has failed to demonstrate that any material evidence has been ignored, that inadmissible evidence has been relied upon, or that the findings recorded by both the Courts below suffer from perversity or are such that no prudent person could have arrived at them. Rather, the concurrent

findings are based upon proper appreciation of the entire evidence available on record and call for no interference.

27. Consequently, no substantial question of law arises for consideration. The present Regular Second Appeal is accordingly dismissed. Pending miscellaneous application(s), if any, shall also stand disposed of.