



**RSA No. 3871 of 2025 & 4007 of 2025
IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH**

I. RSA No. 3871 of 2025(O&M)

Sarita Thakran ... Appellant

Versus

Long Lata @ Launge Lata ... Respondent

II. RSA No. 4007 of 2025 (O&M)

Sarita Thakran ... Appellant

Versus

Long Lata @ Launge Lata ... Respondent

**Reserved on: 12.02.2026
Pronounced on: 16.02.2026**

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Argued by:- Mr. Sumit Sangwan, Advocate
For appellant

Mr. Amit Kumar Jain, Advocate
For the respondents.

DEEPAK GUPTA, J.

These two Regular Second Appeals under Section 100 of the Code of Civil Procedure are directed against the common judgment dated 04.11.2025 passed by the learned Additional District Judge, Gurugram, whereby the appeal preferred by the present appellant–defendant was dismissed and the cross-appeal filed by the plaintiff–respondent was allowed to the extent of granting mesne profits @ ₹10,000/- per month from the date of institution of the suit till delivery of possession.

2. The parties are referred to as per their original status before the trial Court.

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3. The plaintiff instituted a suit seeking mandatory injunction directing the defendant to vacate the first floor of the residential house situated at Village Islampur, Gurugram; permanent injunction restraining creation of third-party rights; and recovery of mesne profits. The case set up was that the suit property had been purchased by her husband Late Ram Chander Thakran, vide registered sale deed dated 01.02.1979 Ex.P1). During his lifetime, he executed a registered Will dated 06.07.2009 bequeathing the said property in favour of the plaintiff. Upon his death on 18.07.2011, the plaintiff asserted that she became the absolute owner. The defendant, who was married to the plaintiff's son on 06.12.2007, was permitted to occupy the first floor as a licensee. The licence was revoked on 15.01.2016. Despite termination, possession was not surrendered.

4. The defendant's stand was that the suit property had been acquired by the State; that the plaintiff was not the owner; that the premises constituted a shared household within the meaning of the Protection of Women from Domestic Violence Act, 2005; and that in view of the alleged dispute regarding title, a suit for mandatory injunction without declaration was not maintainable.

5. The trial Court, after framing issues and appreciating evidence led by the parties, partly decreed the suit for mandatory injunction and declined mesne profits. However, the First Appellate Court affirmed the decree of eviction and also granted mesne profits @ ₹10,000/- per month.

6. Aggrieved defendant has now approached this court against concurrent decrees of eviction; and decree of mesne profits by first appellate court.

7. This court has considered submissions of both the sides and perused the record.

8. At the outset, it is necessary to note that the jurisdiction of this Court under Section 100 CPC is confined to substantial questions of law. Concurrent findings of fact cannot be disturbed unless it is shown that such findings are perverse, based on no evidence, or arrived at by ignoring material evidence or

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applying incorrect legal principles. The present appeals have to be examined within that limited scope.

9. The ownership of the plaintiff has been concurrently upheld by both Courts below. The registered sale deed in favour of Late Ram Chander stands proved. The Will dated 06.07.2009 was proved through an attesting witness and its registration was also established. The death of the testator is not in dispute. No suspicious circumstance surrounding the execution of the Will has been demonstrated.

10. The plea of acquisition by State was duly considered by courts below. Though an Award of 2006 (Ex.DW2/1) was produced, the evidence on record shows that part of the land had been released. No document was produced to establish that possession of the constructed property was ever taken by the State. Compensation was admittedly not withdrawn. On the contrary, the plaintiff continued to exercise dominion over the property, including letting out portions on rent. It is settled that mere passing of an award does not divest ownership unless possession is taken in accordance with law. The concurrent finding that the plaintiff continues to be the owner is based on appreciation of evidence and does not suffer from perversity.

11. The argument regarding maintainability of the suit without declaration is equally without merit. The defendant admittedly entered the premises as daughter-in-law and permissive occupant. Her possession was derivative and permissive at inception. Section 116 of the Indian Evidence Act, 1872 (Section 122 of BSA, 2023) embodies the rule that a licensee cannot deny the title of the licensor at the commencement of the licence. Once the licence stood terminated, the possession of the defendant became unauthorized. In such circumstances, a suit for mandatory injunction seeking recovery of possession is maintainable. The plea of cloud over title cannot be raised by one whose entry was permissive.

12. The reliance upon the concept of shared household under the Domestic Violence Act, 2005 does not advance the case of the defendant. A

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decree of divorce dated 23.01.2023 has already been passed dissolving the marriage between the defendant and the plaintiff's son. No stay of the decree has been shown. The proceedings under the Domestic Violence Act, 2005 stand dismissed. Even otherwise, the right of residence under Section 17 of the Act does not create proprietary rights in property exclusively owned by the mother-in-law. The suit property being self-acquired and devolving upon the plaintiff through a Will, no indefeasible right of residence can be claimed therein by the defendant.

13. The contention that the minor son of the defendant – appellant has a birth right in the property is legally misconceived, the property being self-acquired and testamentary in nature.

14. Coming to mesne profits, the First Appellate Court has granted ₹10,000/- per month from the date of suit till delivery of possession. The record reveals that the licence had been terminated prior to the institution of the suit. The plaintiff produced rent receipts showing that she was residing in rented accommodation and paying ₹10,000/- per month. The defendant was not even residing in the premises but had retained possession by locking it. After termination of licence, such possession is unauthorized and entitles the owner to mesne profits under Section 2(12) CPC. The amount awarded is modest and supported by material on record. It cannot be termed arbitrary or excessive.

15. The findings recorded by both Courts below are based on proper appreciation of evidence and correct application of settled legal principles. The appellant has not been able to demonstrate that any material evidence was ignored, that irrelevant evidence was relied upon, or that any incorrect legal test was applied.

16. In essence, the present appeals seek re-appreciation of evidence and substitution of concurrent findings of fact. It is well settled by the Hon'ble Supreme Court that interference with concurrent findings of fact in second appeal is impermissible unless the findings are perverse or based on misreading of evidence. In ***Kondiba Dagadu Kadam v. Savitribai Sopan Gujar & Ors., (1999) 3 SCC 722***, the Supreme Court authoritatively held that the High Court cannot

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interfere with concurrent findings of fact merely because another view is possible, and that the jurisdiction under Section 100 CPC is strictly confined to substantial questions of law. The present case does not disclose any such perversity or substantial question of law warranting interference.

17. Accordingly, both Regular Second Appeals are dismissed. The judgment and decree dated 04.11.2025 passed by the learned Additional District Judge, Gurugram are affirmed. Parties shall bear their own costs.

16.02.2026*Jiten***(DEEPAK GUPTA)
JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

Uploaded on : February 16, 2026