

IN THE COURT OF THE DISTRICT JUDGE, AMBEDKAR NAGAR

Civil Appeal No. 45 of 2023 (Arising out of Original Suit No. 841 of 2016, decided by Civil Judge on 13-09-2021)

Appellant:

Shri Ram Pal (Plaintiff in O.S. No. 841/2016)

Versus

Respondents:

1. Shri Sant Ram (Defendant No.1)
2. Shri Ghaniya Ram (Defendant No.2, since deceased)

Date of Judgment: 15-11-2025

JUDGMENT

1. **Background:** This appeal, filed by the plaintiff (now appellant), challenges the judgment and decree dated 13-09-2021 passed by the learned trial court (Civil Judge(JD)) in Original Suit No. 841/2016 – Ram Pal vs Sant Ram & another. By the impugned judgment, the learned trial court dismissed the plaintiff's suit concerning agricultural land Khasra No. 1327, admeasuring 0.0580 hectare, situated in Mauja Sugauti, Pargana Mijhouda, District Ambedkar Nasgar (hereinafter "the disputed property").

2. The appellant (plaintiff) had instituted the suit in 2016 seeking a permanent injunction and other reliefs against the respondents (defendants), alleging that the defendants were encroaching upon or interfering with his possession of the disputed property. He claimed to be the lawful tenure-holder (cultivator) of Khasra No. 1327 and asserted that the defendants should be restrained from any construction or intrusion. A survey was conducted on 26-10-2016, during which the disputed property was found to be in its correct place. The defendants, in their written statement, denied any illegal encroachment and maintained that Respondent No.1's construction was actually on the adjacent Plot No. 1333, not on the plaintiff's Plot No.1327. A local inspection report indeed found that no part of the defendants' structure lay on Khasra 1327; the construction of Respondent No. 1 was situated on Plot No. 1333, to the east of Khasra 1327. The defendants further contended that the suit was not maintainable in the civil court, being barred by Section 331 of the U.P. Zamindari Abolition & Land Reforms Act, 1950 and (with the advent of new legislation) by Section 206 of the U.P. Revenue Code, 2006. They argued that the plaintiff's remedy, if any, lay in the revenue court, and thus the civil suit deserved dismissal on this legal ground as well.

3. In light of the pleadings, the learned trial court framed as many as six issues for determination. These issues included whether the plaintiff is the owner in possession of the disputed Khasra No.1327 and entitled to relief, whether the suit was undervalued or deficiently stamped, whether proper court fees were paid, and whether the suit was barred by the provisions of

Section 331 of the U.P. Z.A. & L.R. Act and Section 206 of the U.P. Revenue Code. Crucially, the trial court record reflects that Issue No.6 pertained to the evidence adduced by the parties – it was noted that “the plaintiff did not produce any oral or documentary evidence in support of his plaint”. In contrast, the defendants did not lead any oral evidence, but they did file certain documents (e.g., extracts of revenue records for Plot 1333 and a site map of the area) for the court’s consideration.

4. After considering the pleadings and whatever material was on record, the learned Civil Judge, by judgment dated 13-09-2021, dismissed the plaintiff’s suit. The dismissal was primarily on the ground that the plaintiff failed to prosecute the suit diligently – no evidence was led to prove his assertions, despite ample opportunity. The trial court also held that, in the absence of any proof of the plaintiff’s claims, the plaintiff was not entitled to any relief. Additionally, the court observed that the suit appeared barred by the aforementioned provisions of the Uttar Pradesh land laws, rendering it not maintainable. Aggrieved by the dismissal of his suit, the plaintiff has approached this appellate court.

5. **Points for Determination:** From the rival contentions and the record, the following key points arise for determination in this appeal:

1. Whether the appellant (plaintiff) was afforded sufficient opportunity in the trial court to adduce evidence, and whether the learned trial court was justified in closing the appellant’s evidence and dismissing the suit for want of prosecution?
2. Whether the judgment and decree dated 13-09-2021 of the learned trial court suffers from any illegality or perversity, and whether the plaintiff-appellant proved any entitlement to relief with respect to the disputed property?
3. Whether the civil suit was barred by Section 331 of the U.P. Zamindari Abolition & Land Reforms Act and Section 206 of the U.P. Revenue Code, and if so, whether that provides an alternative ground to uphold the dismissal? (This point is considered only in the alternative; the main issue is the lack of evidence.)

6. **Appellant’s Contentions:** Learned counsel for the appellant contended that the trial court’s decision is erroneous and deserves to be set aside. It was argued that circumstances prevented the plaintiff from leading evidence at trial. In particular, the appellant’s counsel emphasised that during the years 2020–2021, the COVID-19 pandemic and resultant lockdowns disrupted court proceedings, which supposedly hampered the appellant’s ability to bring his witnesses or evidence on time. It is submitted that the plaintiff “was always ready to produce evidence” and that only the extraordinary situation of the pandemic caused delays. The appellant further alleged that the learned trial court did not give a fair or adequate opportunity to present evidence and hastily closed the evidence stage. He also claimed that the trial court failed to frame and consider material issues properly – for instance, it was argued that the court decided the case without framing a specific issue on the alleged

encroachment or without discussing the effect of specific admissions in the defendants' written statement. In sum, the appellant submits that the dismissal of the suit was premature and unwarranted, and he urges that the case be remanded to allow him a chance to prove his case on the merits.

7. **Respondents' Reply:** Per contra, learned counsel for the respondents supported the trial court's judgment and contended that no interference is called for. It was pointed out that the appellant had been given numerous opportunities over several years to substantiate his claim, which he failed to utilise. The respondents' counsel drew attention to the trial court's order sheets, noting that from 2017 onwards the court fixed multiple dates for the plaintiff's evidence, even granting a "last opportunity", yet the plaintiff did not produce a single witness or document. The pandemic alone cannot be blamed, as the plaintiff had defaulted in leading evidence long before the COVID-19 disruptions and continued to do so after everyday court work resumed. It was further argued that the trial court was well within its rights to close the evidence and proceed to judgment when the plaintiff showed persistent negligence. The respondents emphasised the settled principle that the burden of proof lies on the plaintiff. In this case, the plaintiff utterly failed to discharge that burden, leaving the trial court with no material to consider in his favour. Moreover, the respondents maintained that the trial court's dismissal should also be upheld on the ground of maintainability: the suit involved an agricultural holding. It was barred by statute from the civil court's jurisdiction. Therefore, the respondents submit that the appeal is devoid of merit and liable to be dismissed.

8. **Discussion and Findings:** I have carefully considered the submissions of both sides and have perused the entire trial court record. My findings on the points for determination are as follows.

9. **Point (1): Opportunity to Lead Evidence & Justification of Dismissal** – Upon scrutiny of the record, it is abundantly clear that the appellant was given more than sufficient opportunity by the trial court to present his evidence. The order sheet reveals a pattern of adjournments spanning several years for the plaintiff's evidence. To recapitulate briefly, issues were framed on 08-09-2017, and the suit was first posted for the plaintiff's evidence on 07-11-2017. When the plaintiff failed to lead any evidence on that date, the court continued to grant extensions. A final opportunity was given on 08-05-2019, yet even by 17-02-2020, the plaintiff had not produced witnesses for cross-examination. Thereafter, an unforeseen disruption occurred: from late March to May 2020, court proceedings were suspended due to the COVID-19 pandemic lockdown. However, once the courts resumed functioning, the case was again listed for evidence from September 2020 onward. Notably, on 26-08-2021, well after normal operations had restarted, the plaintiff still failed to adduce any evidence, leading the trial court to close the plaintiff's evidence for sheer non-prosecution. To support his claim and the document presented, the plaintiff was required to produce their witnesses for cross-examination so that they could be read as evidence.

10. These facts demonstrate that the plaintiff-appellant had multiple opportunities over approximately four years (2017 through 2021) to present evidence, but he remained inexplicably inert. The learned trial Judge was remarkably indulgent in granting repeated adjournments – even the so-called “last opportunity” given in May 2019 was not acted upon by the plaintiff. Even after the pandemic interruption, when a further opportunity was afforded in August 2021, the plaintiff did not seize it. This Court finds no substance in the appellant’s plea that the pandemic situation justifies his failure. A lockdown indeed halted court work for a couple of months in 2020, but either side could have taken steps soon after to proceed. The record reflects that, long before the pandemic, the plaintiff was already in default, and that, long after the lockdown ended, he continued to be noncompliant. Therefore, the excuse of COVID-19 appears to be a mere afterthought. Courts certainly made allowances for pandemic-related delays, but that cannot condone a litigant’s consistent neglect over the years. Litigation cannot be held in abeyance indefinitely at the whims of an indolent party.

11. Under Order XVII Rule 3 of the Code of Civil Procedure, if a party to a suit fails to produce evidence despite being given sufficient opportunity, the court is empowered to close that side’s evidence and proceed to decide the suit forthwith on the merits. In the present case, the learned trial court did precisely that – after recording the plaintiff’s persistent default, it proceeded to evaluate the case on whatever material was available. Given that the plaintiff had produced no evidence, the trial court had no option but to dismiss the suit. It is a fundamental principle of civil law that the burden of proof lies upon the plaintiff to prove his case. Section 101 of the Evidence Act, 1872, enjoins that a person who asserts a fact must prove it. Here, the appellant contended that he had rights in the property and that the defendants interfered. Yet, he presented no proof of his ownership (such as revenue records or title documents) nor any proof of the alleged interference (such as testimony or reports) during the trial. In such a scenario, the plaintiff’s case remained unsubstantiated.

12. It must be noted that the trial court did not refuse the plaintiff an opportunity; instead, the plaintiff wasted the opportunities given. The appellate record underscores that “adequate opportunity was given by the trial court to the plaintiff to produce evidence, but he failed to take advantage of it and did not produce any evidence”. I find that the learned trial court acted within its jurisdiction and followed due procedure in closing the evidence after repeated adjournments yielded no result. The appellant’s allegation that he was not given a fair chance is belied by the detailed chronology of dates on the record. Therefore, the decision to close the plaintiff’s evidence and dismiss the suit was wholly justified in law and on the facts. The appellant has only himself to blame for the fate of his case; a party who neglects to prosecute his own claim cannot later be heard to complain of the outcome.

13. **Point (2): Legality of the Trial Court’s Judgment & Plaintiff’s Entitlement** – In view of the above findings, this point can be dealt with

succinctly. The appellate court's role is to examine whether the impugned judgment suffers from any legal infirmity or perversity. On the facts of this case, no such infirmity is discernible. The learned trial Judge carefully scrutinised the pleadings and the evidence on record and concluded that the plaintiff failed to prove his case. Given the complete lack of supporting evidence from the plaintiff's side, that conclusion is not only reasonable but inevitable. There is no perversity in a dismissal that is plainly the consequence of the plaintiff's own inaction. In his appeal, the appellant had argued that the trial court did not frame proper issues or consider certain aspects. This contention is unfounded. The record shows the trial court framed all necessary issues, including those of the plaintiff's title, valuation, court fees, statutory bar, and relief. The grievance about the failure to frame issues is therefore misplaced. To avoid considering any purported admissions by the defendants, even if they existed in the pleadings, the plaintiff still needed to lead evidence to establish his primary claim. In any event, a reading of the written statement reveals no unequivocal admission that would obviate the requirement of proof by the plaintiff. Thus, the appellant's criticisms of the trial court's methodology do not hold water.

14. On the contrary, the trial court's judgment appears to be well-founded. It noted that the plaintiff had shown no evidence of his rights over Khasra 1327 or of any interference by the defendants. In fact, the only documentary evidence on record (submitted by the defendants) indicated that the defendants' structure was on a different plot (1333) and not on the plaintiff's land. This corroborated the defendants' stance that no wrongful encroachment was occurring on Khasra 1327. Thus, on merits as well, the plaintiff had not established any cause for injunctive relief. This court of appeals finds no reason to fault the trial court for concluding that the plaintiff-appellant was not entitled to any relief. The impugned judgment is reasoned and does not suffer from any error of law. There is thus no ground to upset the trial court's decision.

15. **Point (3): Bar of Civil Jurisdiction (Alternative Ground)** - Although the above two points effectively decide the appeal, for the sake of completeness, the Court also notes the aspect of the suit's maintainability. The learned trial court had recorded that the suit, as framed, appeared to be barred by Section 331 of the U.P. Zamindari Abolition & Land Reforms Act and Section 206 of the U.P. Revenue Code. Section 331 of the Z.A. & L.R. Act, 1950 (applicable at the time of filing) generally bars the jurisdiction of civil courts in matters where specific relief is available in revenue courts regarding agricultural land tenure disputes. By 2021, the U.P. Revenue Code had come into force, and Section 206 of that Code contains a similar bar. In the present case, the plaintiff claimed rights as a bhumidhar (land-holder) and sought to restrain interference with agricultural land. Such disputes typically fall within the exclusive domain of revenue courts. The respondents had raised this objection from the outset, and it appears well-founded. The plaintiff did not produce any contrary evidence or revenue record to establish that the dispute was outside the scope of the revenue court's jurisdiction. Therefore,

independent of the evidentiary failure, the suit was likely not maintainable before the civil court. The learned trial court was correct in observing the statutory bar. This provides an additional justification for dismissing the suit: a court lacking jurisdiction cannot grant relief. However, since the suit has been found devoid of merit on factual grounds and the appellant has failed to prove, this court need not labour the jurisdiction point. It suffices to state that no infirmity is found in the trial court's concurrence with the legal bar pleaded by the defendants.

16. **Conclusion:** Having examined the matter in its entirety, this Court is of the opinion that the appellant has failed to make out any case for interference with the trial court's judgment. The plaintiff was given ample opportunities but chose not to prosecute his suit by adducing evidence. Consequently, the learned trial court was correct in dismissing the suit, and that decision is wholly sustainable. The appeal, being devoid of merit, is liable to be dismissed.

17. **Order:** In view of the foregoing discussion, the appeal stands dismissed. The judgment and decree dated 13-09-2021 passed by the learned trial court in O.S. No. 841/2016, Ram Pal vs Sant Ram & another, is hereby affirmed in entirety. The appellant's suit shall thus remain dismissed. If any interim order was operative during the pendency of this appeal, the same is vacated. The parties shall bear their own costs of this appeal.

18. Let a decree be drawn accordingly. The trial court record, along with a copy of this judgment, is to be transmitted back to the learned trial court for information and compliance.

(Chandroday Kumar)

District Judge, Ambedkar Nagar.