

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

**RSA No. 1555 of 2013 (O&M).  
Date of Decision : 17.08.2015.**

**Pritam Kaur**

**...Appellant**

**Versus**

**Sukhpal Kaur and others**

**...Respondents**

**CORAM: HON'BLE MR. JUSTICE K. KANNAN**

Present: Mr. Akshay Bhan, Senior Advocate, with  
Mr. Santosh Sharma, Advocate for the appellant.

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**K. Kannan, J. (Oral)**

**CM Nos.4169-70-C of 2013**

For the reasons stated in the applications, delay in re-filing  
and filing the appeal is condoned.

Applications stand disposed of.

**RSA No. 1555 of 2013**

The plaintiff sought for several reliefs including the prayer  
that a Chakotanama executed on 02.11.1988, was invalid and  
inoperative. As per the terms in the impugned order, the tenancy stood  
terminated in 1998 in any event and the suit had been found as having  
been filed within a period of three years. The Court found the defence  
taken that the relief sought

by the plaintiff is barred by limitation to be not established and it held that the starting point of limitation was only 1998 and consequently, the suit was not barred by limitation. If the suit was not barred and the plaintiff was claiming relief of recovery of possession, then the Civil Court could still have not granted any right under the terms of Punjab Security of Land Tenure Act or Punjab Tenancy Act. There is a competent forum declared under the respective enactments to secure ejectment on the grounds specified in the Acts. The Civil Court itself will be barred from ordering eviction. The extent to which the Civil Court would still exercise jurisdiction as provided under Section 100 of the Punjab Tenancy Act will be allowed for a Civil Court to transmit the proceedings to the revenue authorities for ejectment under any of the grounds mentioned under the Act. If the plaintiff has filed the suit denying the Chakotanama and the Court found the document to be true, then the plaintiff is bound to accept the status of the defendants claimed under such a document and seek for ejectment only in a forum provided under the Tenancy Legislation and not through a Civil Court. The jurisdiction of the Civil Court would stand concluded with considering a prayer for declaration of what the document was meant to be. Beyond that prayer when it was held that the Chakotanama was true, it could not have ordered an ejectment in the manners sought for.

Learned Senior Counsel would state that ground of non-

payment of rent, though not specific treated as an issue was surely an aspect of a case which was proved in favour of the plaintiff that the defendant had not paid such rent. The counsel would refer me to the decision of this Court in Arjan Vs. Baley 1971 PLJ 855, where this court was considering applications filed under Section 14-A of the Punjab Security Land Tenures Act for ejectment. It was a case where the respondents took a plea that they were not tenants and there was a question of title involved. When civil suits were filed, the tenants again sought to contend that the Civil Court was not competent and the plaintiff was not the owner of the property. In such a situation, the court was holding that it was not possible for parties to approbate and reprobate. The Court was holding, inter alia, that the Civil Court would not lack the jurisdiction wholly in such matters and Section 100 of the Punjab Tenancy Act would empower the Civil Court after giving its findings to send the decree passed by it to be registered by the Revenue Court which had the jurisdiction. In situation where the tenancy is denied and a suit is brought that would be competent to declare title and provide for ejectment. However, in the present case we confront a different situation of the plaintiff saying that the Chakotanama was not true and the defendants were not tenants. The Court found the document to be true and the necessary incident would be that the plaintiff cannot take the relief of recovery of possession in the Civil Court. He has to go with the

incident of tenancy following the truth of Chakotanama as found by the Court and take appropriate reliefs before the competent forum.

I do not find any error committed by the Court below for refusing to grant a relief of recovery of possession. There are no other points argued before me on the other issues answered by the courts below. Second appeal is dismissed.

**August 17, 2015.**  
*kanchan*

**(K. KANNAN)**  
**JUDGE**