

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

\* \* \* \* \*

**RSA No. 2135 of 2015 (O&M)**

Date of decision : May 15, 2015

\* \* \* \* \*

Harbans Singh

.....Appellant

Versus

Bhajan Singh and another

.....Respondents

\* \* \* \* \*

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

\* \* \* \* \*

Present: Mr. P.S Jammu, Advocate for the appellant.

\* \* \* \* \*

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

**RITU BAHRI, J**

The appellant-plaintiff (hereinafter referred to as 'the plaintiff') has come up in this regular second appeal against the judgment dated 18.4.2015 passed by the Civil Judge (Junior Division), Karnal, whereby the suit of the plaintiff for declaration and permanent injunction restraining the defendants-respondents (hereinafter referred to as 'the defendants') from interfering in his peaceful possession on the suit land and dispossessing him from the suit land (as detailed in para no.1 of the plaint) was dismissed and the judgment dated 1.5.2015 passed by the Additional District Judge, Karnal, whereby an appeal against the judgment and decree of the trial Court was dismissed.

The State of Haryana was the owner of the suit land which was allotted in favour of forefathers of defendants as tenants on 25.7.1963. The father of defendant no.1 was regularly paying the lease amount to the concerned authorities. No allotment was made in favour of the plaintiff. The plaintiff at the same time was claiming that the land was allotted on lease to the plaintiff and he was in actual cultivating possession on the suit land as *Gair Marusi* continuously since 1985. On 31.5.2012, the defendants tried to dispossess the plaintiff illegally and forcibly.

As per Ex. D-17, the defendants proved that their forefathers were given possession of the suit land in the year 1963. The entry of the name of defendants is there in the revenue record prior to the entry of the name of plaintiff recorded in the jamabandi for the year 1985-86 Ex. D-5. This entry continued till the year 2005-06. The plaintiff could not lead any evidence to show his possession on the basis of any khasra girdawari entry. The Patwari Halqa recorded Fard Badar Ex. DW 3/A by observing that the name of plaintiff is wrongly recorded in jamabandi for the year 1985-86 against khasra nos. 15//11, 18 and it continued till the year 2005-06 and hence, the same is liable to be corrected. As far as possession of the plaintiff over khasra no. 19/1(1-10) is concerned, the plaintiff is still shown to be in possession over the same as per jamabandi for the year 1985-86, 1990-91, 1995-96, 2000-01, 2005-06, Ex. P -2 to Ex. P-5. He claims to be a *gair maurusi* in possession under a lease. However, perusal of the jamabandi for the year 2005-06 would reveal that the

plaintiff is shown to be in possession over khasra no. 19/1 (1-10) as a '*Gair Maurusi*, '*Bila lagan Bawajah lenebe*'. He is not shown to be in possession as a lessee but as a tress passer. The plaintiff did not place on record any lease agreement and hence suit for permanent injunction was dismissed. The plaintiff could not protect his possession being a trespasser.

The suit of the plaintiff has been rightly dismissed by both the Courts below as on the basis of a stray entry made in the year 1985-86 Ex. P-2 to Ex. P-5 which continued till 2005-06, no injunction could be issued in favour of the trespasser against the owner. Moreover, the entries in the khasra girdawaris with regard to the land in dispute were in favour of defendants to which the presumption of correctness was attached.

There is no illegality on infirmity in the judgments passed by the Courts below. No substantial question of law arises for consideration in this regular second appeal. Hence, the same is dismissed.

May 15, 2015  
*ritu*

( **RITU BAHRI** )  
**JUDGE**