

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

RSA No.4667 of 2015 (O&M)

Date of decision : 21.12.2015

Jiwan through LRs

...Appellant

Versus

Gram Panchayat and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Vikram Singh, Advocate for appellants.

AMIT RAWAL, J. (Oral)

CM No.11242-C of 2015

For the reasons stated in the application which is duly supported by an affidavit, LRs of appellant-Jiwan as mentioned in the application are ordered to be brought on record for the purpose of prosecuting the present appeal.

The application stands disposed of.

Main Case

The appellants-plaintiffs are in Regular Second Appeal against the concurrent findings of fact, whereby the suit for declaration and permanent injunction claiming ownership as per the Punjab Occupancy

Tenants (Vesting of Propriety Rights) Act, 1952 has been dismissed by both the Courts below.

Mr. Vikram Singh, learned counsel appearing on behalf of appellant submits, that case of the appellant-plaintiff squarely falls within the provision of Section 5 and 8 of the aforementioned Act as it has been proved on record that plaintiff and predecessor-in-interest has been in long and continuous possession since 1973. However both the Courts below have non-suited the appellant-plaintiff on the ground that entry in the jamabandi does not confer the status of tenancy and relegated the parties to avail the remedy under Section 13-A of the Punjab Village Common Lands Act as applicable to the Haryana. He further submits that Courts below have committed illegality and perversity in not looking at the jamabandies pragmatically.

I have learned counsel for the appellant and appraised the paper book.

This Court in *Jaleb Khan and ors. Vs. Commissioner, Gurgaon Division, Gurgaon and ors, 2009(4) RCR (Civil) 385* has held that Gair Marusi tenant cannot acquire the status and rights of 'Marusi' (occupancy tenant) as in the column of cultivation, the petitioner has been recorded as *Gair Marusi Tenant Basharaeh Malkan Bawajah Notaur*.

The aforementioned entry does not confer the appellant-plaintiff status of tenancy but it amounts to only make the land more cultivable and rightly so, both the Courts below have relegated the appellant-plaintiff to claim the ownership/title on the basis of the possession.

Keeping in view the aforementioned facts, I do not intend to differ with the findings rendered by the Courts below, much less, no substantial question of law arises for determination by this Court.

Appeal is dismissed.

21.12.2015

pawan

**(AMIT RAWAL)
JUDGE**