

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

RSA No.4787 of 2014 (O&M)
Date of decision: 21.7.2015

Dhan Kaur and others

..... Appellants

Versus

Dalip

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Vinod S. Bhardwaj, Advocate, for the appellants.

RAJESH BINDAL, J

Having failed in both the courts below in a suit filed by the appellants seeking declaration that they were owners in possession of the suit property being occupancy tenants, the judgments and decrees have been impugned in the present appeal.

On the basis of the pleadings and the evidence led, the appellants sought to claim that they being in possession of the property, acquired right being occupancy tenants. However, the learned courts below found that the appellants had not been able to prove that they are in possession of the suit property as tenants for the last more than two generations and for the period of not less than 20 years at the time of commencement of Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1952 without paying any rent beyond land revenue. In support of the plea, except self serving statement of PW1-Sube Singh, there was no evidence produced on record, rather the appellants/plaintiffs admitted that prior to the year 1963-64, co-owners by their mutual consent were in exclusive possession of the land in dispute. Defendant-Dalip was in possession of land measuring 27 Bighas 15 Biswas and the remaining land measuring 27 Bighs 16 Biswas was in possession of remaining co-sharers, namely, Harphool and others. No evidence was produced on record to show as to how the names of the appellants/plaintiffs were shown to be in possession of the suit property in the year 1963-64. They failed to produce on record any receipt for payment of rent, though it

was claimed by the appellants that they were paying nominal rent. As to whether that the rent being paid was not beyond the land revenue, was also not proved. Not only this all the Jamabandis showing continuous possession of the appellants on the land in dispute for the period of 30 years, were not produced. There is nothing on record to suggest that the appellants were inducted as tenants with understanding not to eject them.

Once the appellants have failed to meet the ingredients required for declaring them occupancy tenants, in my opinion, there is no error in the judgments and decrees of the courts below. The findings recorded by both the courts below are pure and simple findings of fact. No substantial question of law arises. The appeal is accordingly, dismissed.

(RAJESH BINDAL)
JUDGE

21.7.2015

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