

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

Regular Second Appeal No.1638 of 2013 (O&M)

Date of decision: 9.5.2016

Union of India through Secretary

... Appellants

Versus

Mool Chand

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr.D.K.Mittal, DAG, Haryana.

Mr.Sharad Aggarwal, Advocate,
for the respondent.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

AMIT RAWAL, J. (Oral)

The Union is aggrieved of the concurrent findings of fact and law whereby the suit for declaration with consequential relief of permanent injunction declaring the respondent-plaintiff as owner of the suit land on the basis of the provisions of Sections 5 and 8 of the Punjab Tenancy Act, 1868 has been decreed by both the courts below.

Mr.Mittal, learned Deputy Advocate General, Haryana submits that both the courts below have committed illegality and perversity in decreeing the suit as the respondent-plaintiff have not been able to comply with Sections 4 and 5 of the aforementioned Act in essence requirement of period of tenancy was conspicuously not met with and, therefore, declaration could not have been granted and thus, urges this Court to formulate the substantial questions of law as culled out in the memorandum

of appeal.

Mr.Sharad Aggarwal, learned counsel appearing on behalf of the respondent-plaintiff submits that both the courts below after examining oral and documentary evidence found that the respondent-plaintiff and their predecessors-in-interest had been in continuous possession of more than 40 years and, therefore, entitled to seek declaration as per the provisions ibid of the Act. The concurrent findings of fact cannot be interfered with unless and until the substantial questions of law formulated by the learned counsel for the appellant arise for consideration.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is no substance and force in the submission of the learned counsel for the appellant. The appellant-defendant had not been able to lead any evidence in rebuttal to the cogent evidence with regard to long and continuous possession of the plaintiff which suffice the requirement of law. The judgments and decrees Ex.P9 to Ex.P18 shows the long and continuous possession of tenancy of the plaintiff and their predecessor-in-interest and, therefore, the suit has been decreed for declaration with consequential relief of permanent injunction.

No ground for interference is made out, much less, substantial questions of law arises for determination by this Court.

Dismissed.

(AMIT RAWAL)
JUDGE

May 9, 2016
Paritosh Kumar