

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

**RSA No.2894 of 2016 (O&M)
Date of decision:04.07.2016**

State of Haryana and others

... Appellants

Vs.

Smt. Parvati and others

... 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. Siddharth Sanwaria, DAG, Haryana
for the appellants.

AMIT RAWAL J. (Oral)

The appellant-defendants are in Regular Second Appeal against the findings rendered by the Lower Appellate Court in decreeing the suit based upon the claim under Sections 5 and 8 of the Punjab Occupancy Tenancy Act, 1887 (hereinafter referred to as “1887 Act”).

Mr. Siddharth Sanwaria, learned Deputy Advocate General Haryana appearing on behalf of the appellants-State submits that respondent-plaintiffs have failed to establish their claim as per the provisions of Sections 5 and 8 of 1887 Act. Ingredients of Section 5(1)(a) of 1887 Act are conspicuously wanting. The trial Court on the basis of oral and documentary evidence dismissed the suit but the Lower Appellate Court has

committed illegality and perversity in reversing the well reasoned findings. The documentary evidence placed on record does not show the continuous possession of more than 30 years even prior to the promulgation of the Act much less, that of ancestors and thus, substantial question of law arises for adjudication of the present appeal.

I have heard learned counsel for the appellants and appraised the judgments and decrees of the Courts below and of the view that the Lower Appellate Court has rightly appreciated the provisions of Section 5 (2) of 1887 Act which read thus:-

“(2) If a tenant proves that he has continuously occupied land for thirty years and paid no rent therefore beyond the amount of the land-revenue thereof and the rates and cesses for the time being chargeable thereon, it may be presumed that he has fulfilled the conditions of clause (a) of sub-section (1).”

The provisions of sub-section (2) read in conjunction with the provisions of Section 5 as whole but not in isolation. The documentary evidence placed on record, i.e., jamabandis for the year 1964-65, 2004-05 prima facie established the long and settled possession, thus, claim was actually substantiated, much less, foundation had been laid as per the provisions, aforementioned.

In view of the aforementioned observations, I do not find any illegality and perversity in the findings rendered by the Lower Appellate Court being the last Court of fact and law, much less, no substantial question of law arises for adjudication of the present appeal. There is delay

of 584 days in filing the appeal and no substantial reason has been given to explain the delay.

The appeal is dismissed on merits as well as on limitation.

(AMIT RAWAL)
JUDGE

July 04, 2016
savita