

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

RSA No.4577 of 2016 (O&M)

Date of decision:13.12.2016

Deep Chand and others

... Appellants

Vs.

Daulat Ram and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. P.S.Jammu, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

The appellant-plaintiffs are aggrieved of the dismissal of the suit seeking declaration of having become owners, in view of the provisions of Sections 5 and 8 of the Punjab Tenancy Act, 1887 (hereinafter referred to as “1887 Act”). However, the Lower Appellate Court upheld the finding qua non-granting of declaration and protected the possession of the appellants subject to recourse, in accordance with law.

Mr. P.S.Jammu, learned counsel for the appellant-plaintiffs submits that the revenue record placed on record shows the status of the appellants as tenants against payment of rent and the possession was long, continuous, much less sufficing the requirement of provisions of law, aforementioned but the Courts below have committed illegality and perversity in mis-construing the documents in its correct perspective. Though the Lower Appellate Court has protected the possession but the fact

remains that the appellant-plaintiffs are entitled to declaration.

I have heard learned counsel for the appellant-plaintiffs and appraised the judgments and decrees of the Courts below.

It is settled law that where in the revenue record status of the party is to be shown as gair marusi, i.e., tenant without permission, thus, he could not get relief of declaration as per the provisions of Sections 5 and 8 of 1887 Act. This view of mine is supported by the ratio decidendi culled out by this Court in **Jaleb Khan and others vs. Commissioner, Gurgaon Division, Gurgaon and others 2009 (4) RCR (Civil) 385**, therefore, rightly so, the Courts below have not granted the declaration and no other evidence contrary to the finding arrived at by the Courts below, has been brought on record.

I am in agreement with the finding of the Lower Appellate Court granting protection qua possession except in due course of law. Accordingly, the judgments and decrees of both the Courts below are upheld qua declaration. No ground is made out for interference in the impugned judgments and decrees.

Accordingly, the Regular Second Appeal stands dismissed.

(AMIT RAWAL)
JUDGE

December 13, 2016
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No