

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

**RSA No. 3453 of 2016 (O&M)
Date of Decision: 15.02.2017.**

Chanan Ram deceased through LRs Jash Kaur & Ors.

... Appellants

vs.

State of Punjab & Ors.

... Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Present:- Mr. S.S. Hira, Advocate
for the appellants.**

ANITA CHAUDHRY, J.

The predecessor-in-interest of the appellants sought a declaration in respect to the entries in the revenue records. Defendants No.4 to 8 were shown to be in cultivating possession of the suit land. Their plea was that in 1978, the suit land was declared surplus and the Government took over the possession thereof on 02.06.1978 by ousting defendants No.4 to 8, but still they were shown to be in cultivating possession in the jamabandi for the year 2001-02. It was claimed that the plaintiff was in possession of the suit land as a tenant prior to 1978 and the government failed to take rent from him. They claimed that defendants No.4 to 8 took forcible possession of the suit property from him and sought restoration of possession.

The State contested the suit. It asserted its title and claimed that the property was declared surplus but possession of suit land(earlier owned by defendants No.4 to 8) was not taken from

defendants No.4 to 8 in the light of orders passed by this Court. It was their case that the plaintiff was not inducted by the Government as its tenant and so there was no question of taking rent.

Defendants No.4 to 8 disputed the plaintiffs' claim of possession at any point of time. According to them, they had purchased the suit land in 1969 and were cultivating the same since then. Some area of the land owned by them was declared surplus, but the Court had stayed their dispossession in CWP No. 4858 of 1983 filed by them and since then the revenue entries were correctly showing their names.

The parties went to trial on the following issues:-

- “1. Whether the plaintiff is entitled to possession of the suit land?OPP*
- 2. Whether the suit is not maintainable?OPD*
- 3. Whether the plaintiff has not come to the court with clean hands, if so, its effect?OPD*
- 4. Whether the plaintiff has no cause of action to file the present suit?OPD*
- 5. Whether the plaintiff has no locus standi to file the present suit?OPD*
- 6. Whether no notice under section 80 of the CPC was served upon the defendants No.1 to 3 before filing the present suit?OPD*
- 7. Relief.”*

The trial Court vide judgment dated 05.02.2013 dismissed the suit and held that the plaintiff had no cause of action. The appeal filed by the appellants was dismissed by the appellate Court below on

21.04.2016. Dis-satisfied with the same, the appellants have filed the instant regular second appeal.

I have heard learned counsel for the appellant and have gone through the paper-book carefully.

It is a case where the predecessor in interest of the appellants claimed their continuous possession over the suit property as tenant from 1978 till 2004. It was claimed that they were dispossessed w.e.f. 21.09.2004. There was no plea or evidence as to who had inducted them as a tenant or when they came into possession. The State Government as well as the private respondents had disputed the induction of the plaintiff as a tenant. It was averred that the land was declared surplus by the Collector Agrarian and the order was stayed by this Court and it was in possession of private respondents.

The plaintiff has to stand on his own legs. No record was produced by the plaintiff showing his induction as a tenant on the suit property. No receipts regarding payment was produced. The plaintiff kept quiet for such a long time and laid no challenge to the revenue entries. Therefore, it was rightly held that the plaintiff has no cause of action to file the present and the suit was not maintainable.

I find no reason to interfere with the concurrent findings recorded by the Courts below which are neither illegal nor suffer from perversity. The findings are affirmed. Dismissed in limine.

15.02.2017

Jiten
Whether speaking/ reasoned
Whether reportable

**(ANITA CHAUDHRY)
JUDGE**

Yes/ No
Yes/ No