

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

**RSA 3522/2016(O&M)
Date of decision:05.09.2017**

Raj Kumar and others

.....Appellants

v.

Dharam Pal and others

.....Respondents

Coram: Hon'ble Mr.Justice Jaswant Singh

Present:- Mr.Lal Singh Sandhu,Advocate for the appellants.

Jaswant Singh,J,(Oral).

Plaintiffs are in second appeal against the concurrent findings recorded by both the Courts below whereby their suit for declaration and permanent injunction was dismissed by the learned Additional Civil Judge (Senior Division)Sirsa vide judgment and decree dated 12.6.2012 duly affirmed by the learned Additional District Judge, Sirsa vide judgment and decree dated 21.4.2016.

In brief conceded facts are that one Mukh Ram was a tenant of the suit land on payment of 1/3rd *Batai* under the land owners. Said Mukh Ram died in the year 1973. The tenancy rights were mutated in favour of his son Dharam Pal and he was in exclusive possession of the suit property as a tenant. Land owners filed an eviction petition dated 29.5.1997 for ejectment of Dharam Pal before the ACIG Sirsa (Ex.D4). The said application was allowed vide order dated 22.9.2002(Ex.D6) ordering the ejectment of Dharam Pal.

Plaintiffs Raj Kumar, Pawan Kumar and their mother-Santra Devi are claiming tenancy rights alongwith Dharam Pal on the

ground that Santra Devi had performed marriage with Chandu Ram in 1966, who was second son of original tenant Mukh Ram. The stand of the defendants was that Santra Devi was not legally wedded wife of Chandu Ram as in the year 1966, the first legally wedded wife of Chandu Ram @ Chandro was alive. That apart, no evidence has been led to prove the marriage of Santra Devi with Chandu Ram.

After hearing counsel for the appellant at length no ground for interference is made out.

It is a conceded fact that predecessor-in-interest of the plaintiff i.e. Chandu Ram had never remained in possession of the suit land as tenant. It is also a conceded fact that the father of Chandu Ram namely Mukh Ram had not inherited the tenancy rights from his ancestors but was himself inducted as a tenant, therefore, neither any ancestral tenancy rights were claimed by the plaintiffs nor have they disputed that Chandu Ram was never put in possession as a tenant alongwith his brother Dharam Pal. It is also a conceded fact that Dharam Pal had relinquished his exclusive possession and his tenancy rights over the suit property in the year 1999 pursuant to the ejectment orders and the instant suit was filed on 16.2.2006.

Dismissed.

05.09.2017
joshi

(Jaswant Singh)
Judge

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No