

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

114

RSA No.1386 of 2016 (O & M)
Date of Decision:18.07.2018

Gindori Devi and others

...Appellants

Versus

Jaipal Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. A.K. Goel, Advocate
for the appellants.

ANIL KSHETARPAL, J.(Oral)

Plaintiffs-appellants are in the regular second appeal against the concurrent findings of fact arrived at by the Courts below while dismissing the suit filed by the plaintiffs for declaration claiming that they have become owner of the property being occupancy tenants as per the provisions of the Occupancy Tenants (Vesting of Proprietary Rights) Act, 1953.

It is the case of the plaintiffs that they were inducted as *gair marusi* tenant on a nominal rent of Rs.8.28/- and there was a promise that they shall not be ejected from the land in dispute.

This Court in the case of **“Tara Chand vs. Bihari Lal and others”** 2018 (1) R.C.R. (Civil) 443 has taken a view that *gair marusi* tenant cannot claim that he has become occupancy tenant. The literal meaning of word “*gair marusi*” is non-occupancy. There is no provision in the Act which enables a non-occupancy tenant to become an occupancy tenant. Reference in this regard can be made in Tara Chand's case (supra).

Apart therefrom, it is admitted position that the plaintiffs have failed to

prove either the promise of the landlord that he will not be evicted from the land ever or the rent as payable was equivalent to the land revenue.

In these circumstances, this Court does not find any good ground to interfere. Learned counsel for the appellants has also pointed out that there is some misreading of Ex.P-10 jamabandi for the year 1987-88 by the learned First Appellate Court.

This Court does not find that such misreading would make any difference particularly when a *gair marusi* tenant is not entitled to claim that he has become occupancy tenant and thereafter acquired ownership.

Regular second appeal is dismissed.

All the miscellaneous applications, if any, are disposed of, in view of the above said judgment.

18.07.2018
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No