

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

RSA No. 5223 of 2016(O&M)

Date of decision: 26.10.2018

Manohar Lal through LRs and othersAppellants

VERSUS

Gurbaksh Singh and othersRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Shalender Mohan, Advocate for the appellants.

REKHA MITTAL, J. (Oral)

CM No.13576-C of 2016

Prayer in this application is for bringing on record legal representatives (in short 'LRs') of Sampuran Singh (since deceased) – appellant No.5.

Heard.

In view of averments made in the application supported by an affidavit of Satpal, one of the appellants, the application is allowed and persons mentioned in para 5 of the application are allowed to be brought on record as LRs of deceased Sampuran Singh subject to just exceptions and for the purpose of present lis.

Amended memo of parties is taken on record.

Disposed of accordingly.

RSA No.5223 of 2016

The present appeal directs challenge against concurrent findings recorded by the Courts whereby suit for declaration claiming ownership and possessory rights of land measuring 32 kanals situated at Moth Rangran, Tehsil Narnaund, District Hisar as per Jamabandi for the year 2000-01 under the provisions of Section 2(a), 2 (f) and 3 of the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1952 and Section 5 and 8 of the Punjab Tenancy Act, 1887 (in short 'the Act') and the appellants being entitle to get their names recorded in the revenue record regarding the suit land has been dismissed by the trial Court vide judgment and decree dated 31.01.2012 that came to be affirmed in appeal by the District Judge, Hisar.

Indisputably, Section 5 of Act prescribes categories of tenants who can acquire occupancy rights. Clause (a) of Section 5 of the Act says that a tenant who at the commencement of this Act has more than two generations in the male line of descent through a grandfather or granduncle and for a period of not less than twenty years been occupying land paying no rent therefore beyond the amount of the land revenue thereof and the rates and cesses for the time being chargeable thereon has a right of occupancy in the land so occupied.

Counsel for the appellants would urge that plaintiffs/appellants are in possession of suit land since the year 1962 as reflected in the revenue records, therefore, they have acquired right of ownership being occupancy tenants in suit land. However, in response to a query, he would fairly inform that in the Jamabandi in column No.9, there

is no entry with regard to payment of rent which could be less than the land revenue and the rates and cesses for the time being chargeable on the land in question. That being so, one of the essentials of clause (a) of Section 5 of the Act is missing, therefore, their plea to have acquired ownership right on the basis of occupancy tenancy has rightly been rejected by the Courts. In this view of the matter, I do not find an error much less perversity in consistent findings recorded by the Courts, warranting intervention.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. As the appeal has been decided on merits, application for condoning delay in re-filing the appeal is of academic relevance only.

OCTOBER 26, 2018		(REKHA MITTAL)
‘D. Gulati’		JUDGE
Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no