

RSA-5616-2016 (O&M)

124

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

**RSA-5616-2016 (O&M)
Date of decision : 29.11.2018**

Kehar Singh

... Appellant

Versus

Jagir Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Deepak Nayar, Advocate
for the appellant.

AMIT RAWAL, J.

The appellant-plaintiff has not been successful in claiming the possession of the suit property on the premise that Pal Singh was the owner of the land and on his demise, being unmarried and issueless, the property devolved upon the plaintiff.

The defendants opposed the suit and claimed to be occupancy tenants. In the alternative, they had become the owner by way of adverse possession.

The suit was dismissed by the trial Court and affirmed by the lower Appellate Court.

Learned counsel for the appellant-plaintiff submitted that the reasons assigned by the Courts below are totally against the documentary evidence as jamabandi brought on record established the ownership of the suit property in favour of Pal Singh. The defendants could not be accorded

RSA-5616-2016 (O&M)

the status of occupancy tenants being *gair maruasi* in view of the *ratio decidendi* culled out by this Court in **"Jaleb Khan and others V/s Commissioner, Gurgaon and others" 2009 (4) RCR (Civil) 385.**

I am afraid the aforementioned argument viz-a-viz possession is not sustainable as the plaintiff has miserably failed to prove himself to be a collateral of Pal Singh. No evidence as per the provisions of Section 50 of the Indian Evidence Act, in this regard, has been led. In such circumstances, relief as prayed could not have been granted.

As an upshot of my finding, I do not subscribe to the submissions of Mr. Nayar to form a different opinion than the one already arrived at by the Courts below, much less, no substantial question of law arises for determination. No ground for interference is made out.

Resultantly, the second appeal is dismissed.

29.11.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**