

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

**RSA No.1671 of 2017
Date of decision: 22.01.2018**

Hari Parkash

...Appellant

Versus

Parkash Narayan and others

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ashish Yadav, Advocate,
for the appellant.

Ritu Bahri, J.

CM No.4014-C of 2017

In view of the averments mentioned in the application, same is allowed and delay of 985 days in re-filing of the appeal is condoned.

RSA No.1671 of 2017

This appeal has been filed against the judgment dated 13.03.2014 passed by the Additional District Judge, Rewari, dismissing an appeal filed by plaintiff-appellant against the judgment and decree dated 03.08.2011 passed by the Civil Judge (Senior Division), Rewari, whereby suit filed by plaintiffs for declaration, has been dismissed.

Present appellant-Hari Parkash is legal representative of plaintiff No.8-Shadi Lal. Plaintiffs filed a suit for declaration to the effect that they were owners in cultivating possession over the land measuring 112 Kanals 5 Marlas, situated in village Jeetpura Istmurar, Tehsil and District, Rewari as per Jamabandi for the year 1968-69, 1988-89, as detailed in the head note of

the plaint. Initially, the said land was with the ancestors of the plaintiffs as *gair marusi*. Later on, the same was being cultivated by the plaintiffs as *gair marusi* tenants. Therefore, they had become owners of the suit land and had taken possession thereof from their ancestors. Hence, they had acquired occupancy rights in the suit property after the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1952 was passed. As per plaintiffs, they were cultivating the land since long without payment of any rent or *chakota*. Defendants (respondent Nos.1 to 5 herein) had no right to interfere in the cultivating possession of the plaintiffs. It was further stated that name of defendants had wrongly been shown and recorded in the revenue records, whereas neither they were owners nor in possession of the suit land.

Upon notice, defendant-respondent Nos.1 to 5 did not appear before the trial Court, therefore, they were proceeded against *ex parte*.

Trial Court, after going through the evidence led by the plaintiffs, dismissed the suit. Appeal against the said judgment also met the same fate.

Heard.

The case pleaded by plaintiffs before the trial Court was that they are in possession of the suit land from their ancestors and thereafter, they have acquired the occupancy rights in the suit property after the enactment of Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1952. In support of their pleadings, they had placed on record Jamabandi for the year 1968-69. However, no evidence was led before this date to show that they, through their predecessors-in-interest, had been in possession of the suit land. Hence, they have miserably failed to prove that the tenancy was of long duration and any nominal rent was paid to the landlord. Further, no evidence was led to show that their landlord had no intention to eject the

tenants i.e. their predecessors-in-interest. Due to lack of evidence, their suit was dismissed by the trial Court. In appeal, however, plaintiff-appellant had placed on record additional evidence in the form of Ex.PA & Ex.PD i.e. certified copies of the Jamabandies to show that their predecessors were in possession of the suit land. However, these were the certified copies and no officials from the revenue department were examined to prove the said record. Hence, the lower appellate Court dismissed the appeal, as no reliance can be place on the certified copies of the Jamabandies in order to establish long standing possession over the suit property. In these circumstances, the suit has been rightly dismissed by both the Courts below.

After going through the impugned judgments, no illegality, much less perversity, has been found therein warranting interference by this Court. The evidence has been appreciated in the right perspective.

No substantial question of law arises for consideration in this appeal.

Dismissed.

22.01.2018
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No