

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

RSA-2718-2017 (O&M)

Date of decision: September 05, 2018

Jagbir and others

...Appellants

Versus

Suraj Bhan (deceased) through his LRs
Vijay Jain etc. & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Sudhir Aggarwal, Advocate for the appellants.

Rajan Gupta, J.

Present appeal has been preferred to impugn findings of two courts below on the ground that same are perverse and based on misappreciation of evidence.

Plaintiffs/appellants filed a suit for declaration and injunction against the defendant/respondents to the effect that plaintiffs had become owners in possession of the land measuring 41 Kanals 5 Marlas, situated at village Sultanpur, Tehsil Hansi, District Hisar to the extent of their shares as detailed in the plaint, in view of Sections 5 and 8 of Punjab Occupancy Tenancy Vesting of Proprietary Rights Act (No.16 of 1887) and rights of defendants had come to an end therein, as plaintiffs were *Gair Maurusi* on the same. It is further prayed that plaintiffs were entitled to get the revenue record corrected accordingly and the defendants be restrained from taking compensation of the acquired land

and proceedings for eviction initiated before the revenue court be stayed. It is further averred that forefathers of plaintiffs namely, Parhlada and Bhud Singh and after that plaintiffs were in cultivating possession of the suit land for last more than 40 years on rent @ Rs.25/- per year, which is less than the Government Tax. Out of the suit land, 05 Kanals 08 Marlas had already been acquired for sub minor Sultanpur and the compensation had not yet been paid by the Government. Bhud Singh @ Bhuru alias Bhuria had already expired and thereafter, plaintiffs were in cultivating possession of the same. Defendants had filed application for eviction of plaintiffs in the court of Assistant Collector 1st Grade, which was also liable to be stayed. Suit was resisted by the defendants by filing written statement. It was pleaded that land bearing Khasra Nos.146//16/2, 17/2, 24/2 was acquired by Haryana Government for Sultanpur minor, which had wrongly been added by plaintiffs in their plaint. The suit land was earlier cultivated by Parhlada and Bhuru Singh on *Chakota* @ Rs.25/- per year and was not cultivated by plaintiffs. Jogi Ram etc. and their forefathers neither made payment of rent nor deposited the same in the treasury. Bhud Singh had died issueless and after his death, tenancy rights had reverted back. Earlier plaintiffs had filed application on the same cause of action, which was withdrawn by them. After hearing both the parties and perusing oral as well as documentary evidence, the trial court had dismissed the suit. It observed that plaintiffs had already been ejected from the suit land thus, they had ceased to be tenants and thus, cannot take advantage of Punjab Occupancy Tenants Vesting of Proprietary Rights Act. Findings were affirmed by the lower appellate

court.

I find no infirmity with the findings arrived at by both the courts below. A perusal of record shows that plaintiffs had already been ejected from the suit land due to non-payment of rent, due to which they cannot claim occupancy rights. Only plea raised before this court is that judgments of two courts below are based on misappreciation of evidence as well as law. I find no substance in this plea. A perusal of concurrent findings of two courts below reveals that same suffer from no infirmity. No other substantial question of law has been urged.

Dismissed.

CM-6730-C-2017:

Since the main appeal has been dismissed on merits, this application for condonation of delay does not survive and the same is also dismissed.

(RAJAN GUPTA)
JUDGE

September 05, 2018
'Rajpal'

Whether speaking / reasoned	Yes / No
Whether Reportable:	Yes / No