

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

RSA-4455-2018 (O&M)

Date of decision: September 21, 2018

Bhagwana

...Appellant

Versus

Bal Kishan Sharma alias Lilu Ram & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Ms. Alka Sarin, Advocate for the appellant.

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.

Plaintiff/appellant filed a suit for declaration against the defendant/respondents seeking declaration that he had acquired occupancy rights over the suit property and had become owner in possession thereof. Plaintiff averred that he was in continuous cultivating possession as tenant under the defendants and their predecessors over last 30 years, on payment of Rs.60/- per annum as rent on the agricultural land measuring 04 Kanals 07 Marlas, situated within the revenue estate of village Unchagaon, District Faridabad. At the time of creating tenancy, it was promised that plaintiff and his predecessors-in-interest would not be evicted from the suit property and rent would not be increased. As per custom of their village, after completion of 30 years of occupation of land under tenancy, tenants have acquired occupancy rights. Notice of the suit was issued to the defendants. All the defendants, except defendant No.3,

did not appear before the trial court and were proceeded ex-parte. Defendant No.3 in her written statement denied the averments made in the plaint and pleaded that plaintiff never remained in cultivating possession of the suit property and thus, he had not acquired any occupancy rights over the same. After hearing the plaintiff and perusing oral as well as documentary evidence, the trial court dismissed the suit by observing that plaintiff had miserably failed to establish that he had acquired occupancy rights over the suit property and had become owner in possession thereof. Findings were affirmed by the lower appellate court.

I find no infirmity with the findings arrived at by both the courts below. It is evident that plaintiff had failed to prove the factum of his continuous possession for a period of more than 30 years. As per Khasra Girdawari from Kharif, 2001 to March, 2009 placed on record, shows that Haryana Urban Development Authority was in possession of the suit property. 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.

(RAJAN GUPTA)
JUDGE

September 21, 2018
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No