

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

**RSA No.5660 of 2017
Date of Decision: 07.09.2018**

Rafiq and others

.....Appellants

Versus

Ash Mohammad and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. C.B. Goel, Advocate
for the appellants.

ANIL KSHETARPAL J.(ORAL)

Defendants-appellants is in the Regular Second Appeal against the concurrent findings of the facts arrived at by the Courts below while decreeing the suit claiming superior right of pre-emption of sale-deed dated 13.06.2003 on the ground that the plaintiffs are tenants on the land subject matter of sale deed as per the provisions of The Punjab Pre-emption Act 1913.

It is not in dispute that in the State of Haryana, the right of pre-emption still vest with the tenants. Defendants contested the suit and denied the tenancy. However, while leading evidence, plaintiffs produced on file copy of Jamabandi for the year 1997-1998 Ex.P1, copy of Jamabandi for the year 2002-2003 Ex.P5 and Ex.P6 and copy of Khasra Girdawari to prove their tenancy.

Both the Courts after appreciating the evidence, have found that the plaintiffs have been successful in proving their superior right of pre-emption. Learned counsel for the appellants has tried to persuade this Court to take a different view by reading the statement of PW2 where plaintiffs admit that no lease money has been paid to the defendant-appellant and therefore the tenancy has come to an end. However, this Court does not find substance in it. Tenancy which is continuing for quite some time does not get extinguished or ceases to exist merely because lease money has not been paid for some time. As per the provisions of Punjab Tenancy Act, 1887, read with provisions of Punjab Security of Land Tenure Act, 1953, a tenant of an agricultural land is entitled to statutory protection till he is evicted in accordance with the provisions of those Acts.

In the present case, defendants-appellants have led no evidence to prove that fact. Still further the revenue record much before the sale deed proves that the plaintiffs before them and their father was tenant over the land in dispute. Learned counsel for the appellants further submitted that although one suit has been filed, however, each of the plaintiff is claiming to be in possession of specified portion. It is not in dispute that originally their father was tenant and thereafter his heirs have started cultivating the land on same terms and conditions. Therefore, one suit filed for pre-empting one sale deed even if by 16 plaintiffs would be maintainable.

Next argument by learned counsel for the appellants that no rent receipt has been produced to prove the payment of the lease money is also to be noticed and requested. The revenue record has a presumption of truth which records plaintiffs or their predecessor are cultivating the land as tenant much before the execution of the sale deed. Jamabandi for the year 1997-

their possession, which continues in the subsequent Jamabandis and even Khasra Girdawari has been produced on file to prove their possession as a tenant.

Hence there is no ground to interfere, Regular Second Appeal is dismissed.

(ANIL KSHETARPAL)
JUDGE

September 07, 2018
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No