

**RSA No. 5957 of 2018(O&M)**  
**Date of Decision: 31.10.2018**

**Partap**

**---Appellant**

**versus**

**Neelam**

**---Respondent**

**Coram: Hon'ble Mrs. Justice Rekha Mittal**

**Present: Mr. Vijay Singh Kajla, Advocate  
for the appellant**

**\*\*\***

**Rekha Mittal, J.**

The present appeal directs challenge against concurrent findings recorded by the courts whereby claim of the plaintiff-appellant to have acquired ownership rights being occupancy tenant and the respondent-defendant is required to be restrained from alienating the suit land measuring 20 kanal 12 marlas, was dismissed but his prayer for grant of injunction against interference in his possession of suit property except in due course of law, was allowed.

The plaintiff-appellant has claimed to be in possession of suit land since the times of his father, on the basis of jamabandis for the years 1978-79 onwards marked Ex. P1 to P8. It is plea of the appellant-plaintiff that he is in possession of suit land on payment of nominal rent. The courts have consistently held that in the jamabandis relied upon by the appellant-plaintiff for proving his possession since 1978-79, column No. 9 records payment of batai tehai and in column No. 5 pertaining to possession,

he has been described as *gair marusi*. The very fact that the appellant has not clearly mentioned the rate of rent settled between the parties coupled with there being no evidence to rebut presumption of correctness attached to entries in the jamabandis with regard to rent at batai tehai, the courts have rightly held that the appellant-plaintiff has failed to satisfy one of the essentials of Section 5 of the Punjab Tenancy Act, 1887 that he is in occupation of suit land on payment of rent less than land revenue thereof and the rates and cesses for the time being chargeable thereon. In this view of the matter, I do not find an error much less perversity in consistent findings recorded by the courts negating plea of the appellant that he has acquired ownership right to suit land and is entitle to injunction against its true owner restraining her from alienating the same.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine.

**(Rekha Mittal)**  
**Judge**

**31.10.2018**

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No