

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

RSA No. 4405 of 2019(O&M)

Date of decision: 24.9.2019

Sushil Kumar

.....Appellant

VERSUS

Ram Kumar and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. R.S. Tacoria, Advocate for the appellant.

REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against judgment and decree dated 04.05.2019 passed by the Additional District Judge, Sirsa whereby judgment and decree dated 20.05.2016 passed by the trial Court was reversed and suit of the respondents/plaintiffs was decreed to the effect that the appellant/defendant is restrained from dispossessing the plaintiffs from suit property forcibly and illegally except in due course of law.

The sole submission made by counsel for the appellant is that in the jamabandis for the years 1986-87 Ex.P5, 1996-97 Ex.P3, 2001-02 Ex.P2, in column No.9 Nikku Ram son of Net Ram is recorded to be a *sahaik*, therefore, findings of the first Appellate Court accepting the respondents/plaintiffs to be tenant in the suit land cannot be allowed to sustain and liable to be set aside. In support of his contention, he has relied upon judgment of this Court Jit Singh Vs. Bhupinder Pal Kaur and others, 1993 PLJ 53.

I have heard counsel for the appellant, perused the paper-book particularly the judgment passed by the Court in appeal and cited authority.

Counsel for the appellant, in response to a query, is not in a position to point out any such finding recorded by the first Appellate Court whereby the respondents/plaintiffs have been declared to be tenant in suit land. On the contrary, the Court by relying upon revenue records have reversed findings of the trial Court in order to conclude that since respondents/plaintiffs are in possession of the suit land, they cannot be dispossessed forcibly and illegally except in due course of law. In the cited authority, this Court adverted to the question whether a person who is recorded as sahaik or helper can be declared as tenant or otherwise. However, no such observations have been made that even if a person is in possession of agricultural land as a sahaik or helper, the true owner can take the law in his hands and dispossess him except in due course of law. In this view of the matter, the cited judgment has no bearing on the facts of the case at hand. As the respondents/plaintiffs have established their possession over the suit land, they are entitle to seek protection of possession except in due course of law. In this view of the matter, I do not find an error much less illegality in the impugned judgment and decree that would call for intervention.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed in limine. However, nothing stated hereinbefore shall prejudice right of the appellant to recover possession in accordance with law. As the appeal has been decided on merit, application for condonation of delay of 24 days in re-filing the appeal is of academic relevance only.

SEPTEMBER 24, 2019		(REKHA MITTAL)
‘D. Gulati’		JUDGE
Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no