

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

**Date of decision: 19.03.2019**

**1. RSA No.5317 of 2012 (O&M)**

Bhim Sain

**..... Appellant**

Versus

Gulzari Lal and others

**..... Respondents**

**2. RSA No.5323 of 2012 (O&M)**

Bhim Sain

**..... Appellant**

Versus

Gulzari Lal and others

**..... Respondents**

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. S.K. Jain, Advocate  
for the appellant (in both cases).

Mr. Sanjiv Gupta, Advocate  
for respondents No.1 to 5 (in RSA-5317-2012).  
for respondent No.1 (RSA-5323-2012).

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**ANIL KSHETARPAL, J. (ORAL)**

Vide this judgment, I shall be disposing of two inter-connected appeals bearing RSA No.5317 of 2012 and RSA No.5323 of 2012. Counsel for the parties are also agreed that both the appeals can be conveniently disposed of by a common judgment.

Defendant-appellant is in the regular second appeal against the judgment passed by the First Appellate Court while reversing the judgment and decree passed by the trial Court in both the suits.

Plaintiffs-respondents along with proforma defendants claim to be owner in possession of the land comprised in Rect. No.332, Khasra No.8, 13 and 18 measuring 24 kanals. The plaintiffs-respondents have asserted that entry in the revenue record depicting defendants to be in cultivating possession as gair marusi tenant on the basis of daily diary reports dated 06.03.1995 and 13.03.1995 are wrong as these have been obtained after forging the signatures of plaintiffs and proforma defendants. The defendants contested the suit by pleading that it is the defendants who are in possession and the plaintiffs are not owner in possession of the property comprised in Rect. No.332, Khasra No.8 and 13.

Learned trial Court dismissed the suit whereas First Appellate Court has reversed the finding. It will be noted here that in order to prove their case, the plaintiffs have produced on file daily diary reports Ex.P-1 and P-2 and have examined handwriting and fingerprint expert to prove that such daily diary report does not bear their signatures. The defendants did not lead any counter evidence by examining any handwriting and fingerprint expert. Still further, it has come on record that as per daily diary report, change of entry was to be recorded with respect to the land comprised in Khasra No.13 and 18 whereas in the revenue record, it was entered qua the land comprised in Khasra No.8 and 13, although, Khasra No.8 was/is not part of daily diary report. Still further, First Appellate Court has found that on comparison of signatures of Gulzari Lal and Manphool with disputed signatures, it is apparent that the signatures are not of Gulzari Lal and Manphool.

The defendant-appellant claim tenancy under the plaintiffs.

The defendant apart from the entry in the daily diary report has produced on

file subsequent Jamabandi where this daily diary report was given effect to. The defendant has failed to prove any cogent evidence as to what were the terms of the contract of tenancy even if oral. The defendant has further failed to prove that there was ever any payment of lease money in cash or kind.

RSA No.5323 of 2012 is arising from an injunction suit filed by the defendant-appellant. In view of the fact that the defendant has been found to be not in possession, First Appellate Court has rightly reversed the judgment and decree passed by the trial Court.

In view thereof, there is no ground to interfere.

The pending miscellaneous application, if any in both the appeals, shall stand disposed of accordingly.

Both the appeals are dismissed.

**19.03.2019**  
Dinesh Bansal

**( ANIL KSHETARPAL )**  
**JUDGE**

|                           |          |
|---------------------------|----------|
| Whether speaking/reasoned | Yes / No |
| Whether Reportable        | Yes / No |