

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

RSA No.2157 of 2017 (O&M)

Date of decision:14.02.2019

Amar Singh and others

... Appellants

Vs.

Sheo Baksh (since deceased) through LRs and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Munfaid Khan, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

C.M.No.5247-C of 2017

For the reasons stated in the application which is duly supported by an affidavit, delay of 116 days in re-filing the appeal is condoned.

C.M. stands allowed.

RSA No.2157 of 2017 (O&M)

The appellant-plaintiffs have not been successful in claiming the declaration of ownership being occupant tenant in respect of land measuring 73 kanals 09 marlas comprised in various khasra numbers described in the plaint.

It was asserted that defendants had lost the right in view of the provisions of Section 5 of Punjab Tenancy Act, 1887 (for short “1887 Act”)

and the provisions of Occupancy Tenants (Vesting of Proprietary Rights) Act, 1953 (for short “1953 Act”).

The defendants denied the status of the plaintiffs as tenants or their possession. It was explained that plaintiffs has earlier filed the civil suit which had already been dismissed. Some of the defendants sold their land to defendants no.29 and 30. Defendant no.30 filed separate written statement and opposed the suit.

In order to lend the support to the aforementioned pleadings plaintiffs examined four witnesses and brought on record Ex.P1 to Ex.P22. On the other hand, defendants also examined four witnesses and brought on record Ex.D1 and Ex.D2.

Learned counsel appearing on behalf of the appellant-plaintiffs submitted that plaintiffs have been able to prove the long and settled possession in view of the provisions of Section 3 read with Section 2(f) of 1953 Act and Section 5 of 1887 Act but the Courts below erroneously declined the relief.

I am afraid the aforementioned argument is not sustainable as in view of the evidence brought on record it was one Pat Ram who was found to be as tenant as gair marusi. In such circumstances, status of the appellants being occupant tenants for the last more than 30 years has rightly been discarded.

As an upshot of my findings, arguments of Mr. Khan, have not been able to bring the case within the realm of illegality and perversity to form a different opinion than the one arrived at by the Courts below.

No substantial question of law arises for adjudication of the present appeal.

Resultantly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

February 14, 2019
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No