

RSA-967-2017 (O&M)

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

RSA-967-2017 (O&M)

Date of decision : 05.04.2019

Atma Ram

... Appellant

Versus

Sunita Devi and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ashok Arora, Advocate
for the appellant.

AMIT RAWAL, J. (ORAL)

The present appeal is directed against the concurrent findings of fact, whereby the suit of the appellant-plaintiff seeking pre-emption of the sale deed executed by the owner in favour of third party being statutory tenant, has been dismissed by the trial Court and affirmed in appeal.

The plaintiff alleged that as per the revenue record, the plaintiff had been a tenant i.e. *gair marusi* and therefore, it was obligatory upon the landlord to issue notice. The area of the land, subject matter of the sale deed, is measuring 18 kanals 0 marla and accordingly, paid the requisite charges being 1/5th of the probable value.

The defendants opposed the suit and raised the plea of maintainability. It was alleged that the sale consideration was ₹10,82,000/- and the possession was delivered. The status of the appellant, being occupant tenant, was denied.

The plaintiff examined himself as PW1 and tendered in

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evidence Ex.P1 to Ex.P5, whereas the defendants examined Inder Pal as DW1 and brought on record Ex.D1 to Ex.D5.

Learned counsel for the appellant submitted that the both the Courts below dismissed the suit on two accounts; one that the appellant has not been able to show the status of a tenant and second, zar-e-panjam amount was short fall, which can always be rectified as per the provisions of Section 22(2) of the Punjab Pre-emption Act, 1913.

I am afraid the aforementioned argument is not sustainable as on the glance of the jamabandi (Ex.P2), against Khasra No.87//8, 9 & 10, status of the appellant-Atma Ram has been shown as cultivator. There is no reflection of tenant. In the absence of relationship of the landlord and tenant, the suit for pre-emption was not maintainable and rightly so, has been dismissed by the Courts below.

As an upshot of my finding, I do not subscribe to the submissions of Mr. Arora,, to form a different opinion than the one already arrived at by the Courts below, much less, no substantial question of law arises for determination.

Resultantly, the second appeal is dismissed.

05.04.2019

Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**