

In the High Court of Punjab and Haryana at Chandigarh

**RSA- 113 of 2019 (O&M)
Date of Decision: 11.2.2020**

Paras

---Appellant

versus

Dani Ram and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Amardeep Sheoran, Advocate
for the appellant**

Rekha Mittal, J.

Challenge in the present appeal has been directed against concurrent findings recorded by the courts whereby suit for declaration that plaintiff (appellant herein) and proforma defendants are entitle to get their names entered in revenue records as owners in possession of suit land measuring 1 bigha 15 biswas, situated in village Kakroli Hukmi, Tehsil Badhra, District Bhiwani being occupancy tenants since 1960-61, was dismissed by the trial court vide decree and judgment dated 27.4.2015 that came to be affirmed in appeal by the Additional District Judge, Charkhi Dadri.

The Appellate Court, in para 11 of the judgment, has accepted plea of the appellant that he and proforma defendants are tenants in the disputed property on payment of batai ½ share of the produce but negated his plea to be declared as owner being occupancy tenant by holding that there is no material to conclude that ½ of total produce paid as *batai* to the

land owner is less than value of land revenue and cess assessed by the State, payable in respect of the land in question.

Counsel for the appellant, in response to a query, is not in a position to point out any materials on record on the basis whereof the appellant can satisfy one of the essentials of Section 5(2) of the Punjab Tenancy Act, 1887 wherein it is required to be proved by the person claiming ownership on the basis of occupancy tenancy that he was in possession of suit land as a tenant for a particular period of time on payment of rent less than land revenue and cess payable on the land in dispute. That being so, the appellant has rightly been non-suited by the court in respect of his plea of ownership on the basis of occupancy tenancy.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed in limine.

(Rekha Mittal)
Judge

11.2.2020

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No