

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

RSA-4524-2013 (O&M)

Date of decision : 25.02.2020

Noor Mohd. and others

...Appellants

Versus

Fajjar (since deceased) through his LRs and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. J.S. Hooda, Advocate for the appellants.

Mr. Harshit Jain, Advocate for
Mr. Pankaj Jain, Advocate for respondent No.1.

Mr. Munfaid Khan, Advocate for respondent No.3.

ANIL KSHETARPAL, J. (ORAL)

The plaintiffs-appellants have filed the Regular Second Appeal against the judgment passed by the learned First Appellate Court.

The plaintiffs had filed the present suit for declaration to the effect that they are in possession of half share of the land measuring 6 kanals 16 marlas from a long time being tenant and therefore, they have become owner by efflux of time in view of the provisions of the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1952 .

The defendants contested the suit and stated that the plaintiffs

are neither owners nor in possession of the property and the revenue entries depicting the plaintiffs to be in possession are wrong.

Learned trial Court decreed the suit by applying the provisions of Sections 5 & 8 of the Punjab Tenancy Act, 1887, on the ground that the plaintiffs are recorded to be tenants in possession for more than 30 years before filing of the suit and therefore, they have acquired the status of occupancy tenants and hence, they have become owner.

Learned First Appellate Court, on re-appreciation of evidence, found that the plaintiffs are not proved to be the tenants in possession because the entry in the revenue record is showing that they are in possession as *gair marusi* with no further entry of rent in column No.9. The entry in favour of the plaintiffs is *bashare malkan bawajan darina kasht*. This Court has already interpreted the aforesaid sentence which is originally in Urdu, in the judgment passed in the case of Ram Kishan and others v. Jagdish and others, RSA No.4412 of 2014 decided on 23.02.2018. It has been held as under:-

“In the considered opinion of this Court, both the courts below have committed a material illegality in reading the entries in the jamabandies. The plaintiffs in the jamabandi for the year 1963-64 are recorded in the cultivation column as Gair Marusi. The literal meaning of Gair Marusi is known as non-occupancy. In the rent column, it is recorded as BILLA LAGAN BAWAJAH DARINA KASHT. Thereafter as per jamabandi for the year 1968-69 in the rent column, it is recorded as BILLA

LAGAN BAWAJAH DARINA KASHT which continues up to the year 2003-2004. The literal meaning of words BILLA LAGAN BAWAJAH DARINA KASHT is that the persons are proclaiming to be owners by reason of being in the cultivating possession since long.”

Keeping in view the aforesaid detailed judgment, this Court finds no ground to interfere.

Accordingly, the present Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

25.02.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No