

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

RSA No.5102 of 2019 (O&M)

Date of Decision: 19.12.2023

Sant Ram and others

... Appellants

Versus

Krishna Devi and others

... Respondents

CORAM: *HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA*

Present:- Mr. Sanjay Majithia, Senior Advocate with
 Mr. Sumit Sinha, Advocate and
 Mr. Rishabh Wadhera, Advocate
 for the appellants.

MEENAKSHI I. MEHTA, J.(Oral)

Feeling aggrieved and dissatisfied by the judgment and decree as passed by learned Additional Civil Judge (Senior Division), Hoshiarpur (for short 'the trial Court) on 22.09.2015, whereby the Civil Suit filed by the appellants-plaintiffs (here-in-after to be referred as 'the plaintiffs') for seeking decree for declaration to the effect that they were '*Gair-Morusi*' tenants over the suit land, with the further prayer for issuing the mandatory injunction by way of directing the respondents-defendants (here-in-after to be referred as 'the defendants') not to transfer the said land to any other person and to restrain them from interfering in their (plaintiffs') possession over this land and also to restrain defendants No.7 to 9 from attesting any sale-deed, transfer-deed or the mortgage-deed, as might be presented by defendants No.1 to 6 before them, without verifying their identity as the real

children of owner-Biru Ram S/o Prabhu, was partly decreed to the extent of restraining the defendants from interfering in their (plaintiffs') possession over the suit land without due course of law as well as by the judgment and decree handed down by learned Additional District Judge, Hoshiapur (for short 'the Lower Appellate Court') on 08.12.2018 qua partly allowing the appeal, moved by them (plaintiffs') against the above-referred judgment and decree dated 22.09.2015 and thereby, declaring them to be the '*Gair-Morusi*' tenants on the suit land @ Rs.18/- per Kanal and also granting the injunction against their dispossession by respondents No.10 & 11 except in due course of law, the plaintiffs have chosen to prefer the present Regular Second Appeal to lay challenge to the same.

2. As per the brief factual-matrix culminating in the filing of this appeal, the plaintiffs filed the afore-said Civil Suit, while averring that they were tenants in the suit land through their predecessors-in-interest and the said land had wrongly been mutated in the name of defendants No.1 to 6 in the revenue record whereas in fact, they were not the children of the above-said owner. Defendants No.1 to 6 and defendant No.9 filed their separate written-statements, contesting the claim of the plaintiffs therein on various grounds. The plaintiffs filed their replication and the trial Court framed the issues and the parties led their evidence. After hearing learned counsel for both the parties and evaluating the evidence as adduced by the parties on the record, the trial Court partly decreed the Civil Suit and the appeal filed by the plaintiffs, has also been partly allowed by the Lower Appellate Court as already discussed in the opening para of this judgment.

3. I have heard learned Senior counsel for the appellants-plaintiffs in the instant appeal, at the preliminary stage and have also gone through the file carefully.

4. Learned Senior counsel for the appellants-plaintiffs contends that defendants No.1 to 6 are not the actual successors-in-interest of the afore-named owner of the suit land but the concerned revenue authorities have wrongly sanctioned the mutation in their favour in respect thereof and moreover, defendants No.7 to 9 need to be restrained from attesting any deed regarding the alienation of this land at the instance of defendants No.1 to 6 without verifying the factum of their relationship with the above-said owner but both the Courts below have not appreciated these material aspects of the dispute between the parties in the correct perspective and hence, the impugned judgments and decrees deserve to be modified by decreeing the said Civil Suit in toto, as prayed for by the plaintiffs.

5. However, the afore-raised contentions are devoid of any merit because as mentioned earlier, the trial Court partly decreed the said Civil Suit to the extent of protecting the possession of the plaintiffs over the suit land and the Lower Appellate Court has also partly allowed their appeal by declaring them to be the '*Gair-Morusi*' tenants in the said land, besides granting the relief of injunction in their favour. As regards their contention qua defendants No.1 to 6 not being the actual/real successors-in-interest of the afore-said owner, the same is neither supposed nor required to be dealt with and adjudicated in the present appeal because the plaintiffs, who are stated/claimed to be the tenants in the suit land, have no occasion or right

to challenge the title of the owner, who has been recorded as such in the relevant revenue record.

6. So far as the prayer of the plaintiffs for restraining defendants No.7 to 9 from attesting any document regarding the alienation of the suit land that might be presented by defendants No.1 to 6 to them, is concerned, the plaintiffs, being the tenants in the said land, cannot seek such injunction and even otherwise, in the normal course of discharge of their official duty, the competent Authorities are required/supposed to follow the prescribed Rules, procedure and other norms as well.

7. As a sequel to the fore-going discussion, it follows that the impugned judgments and decrees passed by both the Courts below, do not suffer from any illegality, infirmity, irregularity or perversity so as to call for any interference by this Court. Resultantly, the Regular Second Appeal in hand, being *sans* any merit, stands dismissed.

December 19, 2023
pooja

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No