

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

RSA-3283-2019 (O&M)

Date of Decision: September 19, 2023

AMRIK SINGH

..... Appellant

Versus

SMT. GIANWATI DEVI AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sanjay Verma, Advocate for appellant.

HARKESH MANUJA, J. (ORAL)

By way of present appeal, challenge has been laid to the judgments and decrees dated 24.02.2014 and 21.01.2019 whereby a suit for symbolic possession by way of pre-emption, filed at the instance of appellant-plaintiff has been dismissed by the Courts below.

2. Briefly stating, the appellant-plaintiff claiming himself to be a “Gair Marusi tenant” over property in question measuring 7 kanals and 3 marlas, being half share of land 14 kanals and 5 marlas falling within the revenue estate of Village Tibbi Araiyan, Hadbast No.179, Tehsil Chhachhrauli, District Yamuna Nagar, filed a suit for possession by way of pre-emption while stating that the sale deed dated 22.12.2005 executed by the owner-Smt. Surjeet Kaur in favour of respondents-defendants was liable to be set aside.

3. On the other hand, upon notice respondents appeared and disputed the claim set up by appellant-plaintiff while stating that they were owners in possession of the property in question by virtue of sale deed dated 22.12.2005, besides disputing the claim of appellant-plaintiff of he being a tenant over the property in question.

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4. The trial Court vide judgment and decree dated 24.12.2014 dismissed the suit filed at the instance of appellant-plaintiff. Aggrieved thereof, the First Appeal was filed, however, the same was also dismissed by First Appellate Court vide judgment and decree dated 21.01.2019.

5. Impugning the aforementioned judgments and decrees passed by Courts below, learned counsel for the appellant submits that the Courts below failed to take notice of the order dated 19.04.2012 passed by the Assistant Collector, 2nd Grade-cum-Tehsildar, Yamuna Nagar which formed part of the record as Ex.P-4, wherein it was categorically recorded that the appellant-plaintiff was in possession of property in question being "Gair Marusi". Learned counsel further submits that in the wake of those findings, the suit filed at the instance of appellant-plaintiff seeking decree for symbolic possession by way of pre-emption being a tenant was required to be decreed.

6. I have heard learned counsel for the appellant and gone through the paper-book. I am unable to find substance in the submissions made by learned counsel for the appellant.

7. In the present case, no evidence whatsoever has been produced or proved on record at the instance of appellant-plaintiff so as to establish payment of rent/batai in favour of the landlady and thus, in the absence thereof, the relationship of landlord-tenant was never established on record. The order dated 19.04.2012 Ex.P-4 passed by Court of Assistant Collector, 2nd Grade, Chhachhrauli, while entertaining the application, seeking correction of Khasra Girdawari filed at the

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instance of appellant-plaintiff may not come to his rescue as in the said order no finding at all has been recorded as regards any kind of payment of rent or relationship of landlord-tenant between appellant-plaintiff and the other co-sharer namely, Surjeet Kaur. Mere observation made by the Assistant Collector, 2nd Grade, Chhachhrauli in the order dated 19.04.2012 to the effect that the appellant-plaintiff was in possession of the suit property being Gair Marusi, in the absence of any proof of payment of rent would not endorse and acknowledge the status of appellant-plaintiff as that of tenant over the property in question.

8. For the reasons recorded hereinabove, finding no merits in the present appeal and there being no illegality or perversity in the concurrent findings of facts as recorded by the Courts below, the present appeal is dismissed.

9. Pending application(s), if any, shall also stand disposed of.

19.09.2023

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(**HARKESH MANUJA**)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>