

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

RSA-4693 of 2016(O&amp;M)

Date of Order:03.11.2023

Subhash Chand and another

.Appellants

Versus

Dharam Devi (Deceased) through her LRS and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present:** Mr. Ajit Kumar Sharma, Advocate  
for Mr. R.D.Yadav, Advocate  
for the appellants.

**ANIL KSHETARPAL, J**

1. In this regular second appeal, the plaintiffs assail the correctness of the concurrent findings of fact arrived at by the courts below while dismissing their suit for grant of decree of declaration that they are the occupancy tenants over the land measuring 28 kanals and 12 marlas.

2. In order to comprehend the controversy involved in the present case, the relevant facts, in brief, are required to be noticed.

3. The plaintiffs claim that their father late Sh. Ram Saroop started cultivating the land as a “Gaur Marusi”(tenant) on the payment of rent @ 50 paise per kanal in the year 1970 and thereafter, he is continuously in possession of the said property. They are entitled to be granted the status of occupancy tenants and ownership in view of the The Punjab Occupancy Tenants (Vesting of Proprietary Rights), Act, 1953 (hereinafter referred to as 'the 1953 Act').

4. The defendants while contesting the suit claimed that the property has never been cultivated by either late Sh. Ram Saroop or the

plaintiffs. They claimed that the entries in the revenue record are wrong and the land was allotted to the defendants by the custodian department.

5. Both the courts on appreciation of the evidence have found that in the previous suit, the plaintiffs also claimed that they have become the occupancy tenants which was dismissed vide judgment Ex.P-11. Moreover, the First Appellate Court also found that the plaintiffs have failed to fulfill the requirements of the law with regard to the occupancy tenants.

6. The First Appellate Court relied upon the judgment passed in **Jaleb Khan and others vs. Commissioner, Gurgaon Division, Gurgaon and others, 2009(4) Recent Civil Reports 385** to hold that a “Gair Marusi” tenant cannot claim that he has become “Marusi” and therefore entitled to onwership.

7. The learned counsel representing the appellants failed to draw the attention of the court to any substantive error in the findings of fact arrived at by the courts below.

8. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

9. Dismissed, accordingly.

10. All the pending miscellaneous applications, if any, are also disposed of.

November 03, 2023  
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(ANIL KSHETARPAL)  
JUDGE

Whether speaking/reasoned  
Whether reportable

:YES/NO  
:YES/NO