

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

RSA-2105-2023 (O&M)

Decided on:-15.11.2023

Kehar Singh

....Appellant..

vs.

Champa Devi and others

....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sanjay Verma, Advocate,
for the appellant.

HARKESH MANUJA J. (Oral)

1. By way of present appeal, challenge has been laid to the judgments and decrees dated 30.03.2015 and 05.11.2022 passed by the Courts below, whereby, suit for possession by way of pre-emption as well as for permanent injunction, filed at the instance of appellant-plaintiff, stands dismissed.

2. Very briefly, claiming himself to be a “*gair mairusi*” tenant over 14 marla being 1/8th share of land measuring 05 kanal-12 marla comprised in Khewat/Khatauni No.1342/1563, Khasra No.46//23/2, 24/1 situated in village Bilaspur, Hadbast No.279, Tehsil Jagadhri, District Yamuna Nagar (Haryana), appellant-plaintiff filed a suit for possession by way of pre-emption, while stating that the same was sold by the original owner namely Asha Rani in favour of respondent No.1 (Champa Devi) vide registered sale deed dated 09.12.2005, affecting his rights of pre-emption.

Permanent injunction regarding further alienation was also prayed.

3. On the other hand, claim made in the suit was denied by the respondents-defendants while having filed a detailed written statement. The factum of relationship of tenancy between the appellant-plaintiff and the original owner (Asha Rani) was disputed while submitting that the appellant-plaintiff was merely recorded as a “gair mairusi” in the jamabandis as the entry/column of rent was blank.

4. The Trial Court vide its judgment and decree dated 30.03.2015, dismissed the suit filed at the instance of appellant-plaintiff. Aggrieved thereof, the appellant-plaintiff filed first appeal, however, the same was dismissed by First Appellate Court vide its judgment and decree dated 05.11.2022.

5. Impugning the aforementioned judgments and decrees passed by the Courts below, learned counsel for the appellant submits that the Courts went wrong while non-suiting the appellant-plaintiff in ignorance of the revenue documents available on record having held that his tenancy over the land in question was not proved. No other arguments have been addressed.

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 on behalf of the appellant.

7. In the present case, from the evidence available on record, it is evident that appellant-plaintiff was never proved to be a tenant over the property in question. The possession of the appellant-plaintiff was recorded as “gair mairusi” and column No.9 i.e. of rent was blank. Besides it, the appellant-plaintiff failed to prove on record any documentary or oral

evidence as regards payment of rent in favour of the original owner i.e. Smt. Asha Rani and thus failed to prove his tenancy over the suit property.

8. In view of the discussion made herein-above, finding no illegality or perversity with the concurrent findings of fact recorded by the Courts below, there being no overlooking of the material available on record, re-appreciation of pleadings and the evidence being impermissible, the present appeal being devoid of merits is thus, dismissed.

9. Pending applications if any stand disposed of.

15.11.2023

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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/ No