

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-122 of 1994 (O&M)
Date of Order:01.04.2024

Bhim Singh (Deceased) through LRs

.Appellant

Versus

Prem Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sandeep Siwach, Advocate
for LRs of the appellant.

Mr. Jeevan Gautam, Advocate, for
Mr. S.D.Bansal, Advocate
for the respondents.

ANIL KSHETARPAL, J

1. This is the plaintiff's regular second appeal to assail the correctness of the concurrent findings of fact arrived at by the courts below while declining the relief of possession on the ground that he can seek eviction of the respondents, who are tenants under the provisions of the Punjab Tenancy Act, 1887 read with the provisions of Punjab Security of Land Tenures Act, 1953.
2. In order to comprehend the issue involved in the present case, the plaintiff claims that he is a co-owner in the land measuring 27 kanals and 2 marlas and is in common cultivating possession of the suit land described in caption no.(i) and defendants have encroached upon the suit land described in caption no.(ii).
3. The defendants while contesting the suit claimed that they are in possession of the property as occupancy tenants.

4. Both the courts have held that the defendants failed to prove that they are occupancy tenants. However, it has been held that the plaintiff cannot maintain a suit for possession particularly when the defendants are proved to be tenants, who do not have occupancy rights.

5. In the States of Punjab and Haryana, the expression 'occupancy tenants' confers a special status upon the tenants, who are ultimately entitled to ownership under the Punjab Occupancy Tenants(Vesting of Proprietary Rights) Act, 1952. In this case, both the courts have held that the defendants are not the 'occupancy tenants'. However, by filing an application under Section 77(3)(c) of the Punjab Tenancy Act, 1887 the appellant can take possession only before the Special Tribunal presided over by the Executive Officer of the State Government.

6. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book along with the scanned trial court record.

7. The learned counsel representing the appellant submitted that the defendants have failed to prove their status as 'occupancy tenants' and therefore, the plaintiff being the owner is entitled to possession.

8. This court has considered the submission of the learned counsel representing the parties, however, found no substance therein.

9. Under the Punjab Tenancy Act, 1887, the rights of owner seeking eviction of the tenant over the agricultural land is regulated and controlled. Both the courts have permitted the appellant to resort to the aforesaid remedy.

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

11. Dismissed.
12. All the pending miscellaneous applications, if any, are also disposed of.

April 01, 2024
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO