

**RSA-984-2024****IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****131****RSA-984-2024 (O & M)
Date of decision:15.10.2024****PIYARA SINGH AND OTHERS**

...Appellants

Versus

**CHIMAN LAL (SINCE DECEASED) THROUGH HIS LRS AND
OTHERS**

...Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT**Present:- Mr. Kartar Singh, Advocate,
for the appellants.**

RAJBIR SEHRAWAT, J. (Oral)

1. The present regular second appeal has been filed by the unsuccessful plaintiffs in the original suit, challenging the concurrent judgments and decrees passed by both the courts below, whereby his suit for declaration and permanent injunction has been dismissed.

2. Brief facts, as involved in the case, and as can be seen in the judgments of the courts below, are that the appellant-plaintiffs had filed a suit for declaration, asserting therein that they are in possession of the suit land situated within the revenue estate of village Sadhanwas, Tehsil Tohana, District Fatehabad, without paying any rent to the defendants and that the entries in the column No.9 in *jamabandi* for the years 1985-86 and 1995-96 as '*gair marusi batai tihai*' and entries in column No.5 in the subsequent *jamabandi*, as '*gair marusi*', are wrong and illegal. Previously, Amar Singh was cultivating the suit land as lessee from crop *Rabi* 1995 till

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kharif 1979, and after expiry of lease period, the defendants did not take back the possession of the suit land from Amar Singh and he (Amar Singh) had transferred his possessory rights qua the suit land, to Surta Singh in crop *kharif* 1982, who had transferred the same in favour of Khana Ram (father of plaintiffs No.1 and 2 and grand-father of plaintiffs No.3 and 4). The plaintiffs have requested the defendants number of times to get the entries corrected in the revenue records, but they did not pay any heed to the same. Hence, the suit was necessitated.

3. After appreciating the evidence led by the respective parties, the trial Court dismissed the suit, vide judgment and decree dated 20.03.2018. Aggrieved against the same, the present appellants filed the first appeal before the Court of Additional District Judge, Fatehabad. However, even the said appeal was dismissed by the lower Appellate Court, vide impugned judgment and decree dated 12.01.2024. Aggrieved against the same, the present appeal has been preferred.

4. Arguing the case, counsel for the appellant-plaintiffs in the original suit, has submitted that the appellants have been in long and established possession of the suit property without payment of rent. Therefore, the entry which had crept in the revenue records to the effect that the appellants were *gair marusi* tenants by paying *batai tihai* as rent, was wrong, and deserves to be corrected. Counsel has reiterated the arguments, by submitting further that entries to this effect were three stray entries only having no basis for their coming into existence. Therefore, the courts below should have decreed the suit filed by the appellants. Counsel

has further submitted that the courts below have relied only upon one

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document i.e. Ex.D1, which is relating to the alleged payment of rent of about Rs.44,000/-. The said payment had been made under protest during pendency of the proceedings before the Assistant Collector. The said document cannot be relied upon against the appellants for determination of their status as tenant on rent.

5. No other argument has been raised.

6. Having heard learned counsel for the appellants and having perused the case file, this Court finds that revenue record has clearly shown the appellants to be '*gair marusi*' tenants on 1/3rd share of produce as the rent. There is nothing brought on record by the appellants to show as to how they came into possession of the land in question, if not as tenants on rent of 1/3rd share of the produce. Moreover, there has been a payment of rent by the appellants themselves. Though the appellants claimed the payment having been made under protest during pendency of the proceedings before the Assistant Collector, however, the said proceedings were also decided against them. Though the appellants had filed an appeal challenging the order passed by the Assistant Collector, however, they had even withdrawn the said appeal. Therefore, any protest attached to the payment of the rent is denuded altogether in this matter. Moreover, the respondents have led sufficient evidence to show that the appellants were only the tenants on the property owned by them. Hence, this Court does not find any perversity with the findings recorded by the courts below.

7. Otherwise also, the present appeal is directed against the concurrent judgments, decrees and the findings of fact recorded by both the

Courts below. However, the concurrent findings of fact recorded by the



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Courts below are not even to be interfered with only for possibility of arriving at a different conclusion on re-appreciation of the evidence; unless there is an abject perversity shown to the Court or some substantial question of law is involved in the matter. However, learned counsel for the appellant has not been able to highlight any substantial question of law involved in the matter and this Court does not find any perversity in the findings recorded by both the Courts below.

8. In view of the above, finding no merit in the present appeal, the same is dismissed.
9. The pending miscellaneous application, if any, is also disposed of as such.

15.10.2024
parveen kumar

(RAJBIR SEHRAWAT)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No