



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

112

**RSA-708-2018 (O&M)
Date of Decision : 16.12.2024**

SUKHRAM (SINCE DECEASED) THR LRS Appellants

VERSUS

GRAM PANCHAYAT, INDRI AND ANR Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Jangvir S. Hooda, Advocate for the appellants.

ALKA SARIN, J. (ORAL)

1. The present regular second appeal has been preferred by the plaintiff-appellants challenging the judgments and decrees dated 21.05.2016 passed by the Trial Court and dated 04.09.2017 passed by the First Appellate Court.
2. Brief facts relevant to the present *lis* are that the plaintiff-appellant - Sukhram - filed the present suit for declaration and permanent injunction against the Gram Panchayat, Indri (defendant/respondent No.1) and his son, Nawal (defendant/respondent No.2) averring in the plaint that the plaintiff-appellant was a *Gair Marusi* tenant in the capacity of '*Bawaha Derina Kast*' and was not paying any rent in respect of agricultural land comprised in Khewat/Khata No.1672/1780 Rect. No.54 Killa No.1/1 (1-8), Rect. No.55 Killa No.5/2 (3-0) total measuring 4 Kanal 8 Marlas situated within the revenue estate of Village Indri, Tehsil Nuh, District Mewat. It was the case set up that previously one Chhitar son of Ghisa son of Dhanwa used

to cultivate the suit land and thereafter his son, namely, Jamnadas. An ejectment petition bearing No.90/85 titled as 'Social Education and Panchayat Officer V/s Jamnadas' was filed by the Gram Panchayat. On 04.02.1987 the Court held Jamnadas was entitled to get protection under Sections 4, 3(II) of the Punjab Village Common Land Act, 1961 (hereinafter referred to as the 'Punjab Common Land Act') and his possession was held to be authorized. An appeal was preferred by the Gram Panchayat before the Deputy Commissioner, Gurugram which appeal was dismissed vide order dated 27.07.1987. Thereafter, on the basis of the order passed by the Deputy Commissioner Gurugram, Rapat No.352 dated 06.05.1993 was incorporated in the revenue record reflecting Jamnadas son of Chhitar as '*Mujare Derina Kasht*'. It is further the case set up that Jamnadas executed a relinquishment deed qua his tenancy rights for a sum of ₹5,500 in respect of the suit land on 29.07.1983 and on the basis of the said relinquishment deed all tenancy rights qua the property was transferred in favour of the plaintiff-appellant, however, the name of Nawal (defendant/respondent No.2) was written in place of the plaintiff-appellant. It was further the case that neither the plaintiff-appellant nor his successor had paid any *Batai, Lagan, Chakota* to the defendant-respondents except the revenue Cess and the possession of the plaintiff-appellant over the suit land was continuous, hostile, regular, uninterrupted and to the knowledge and notice of the defendant-respondents. It was further claimed that the plaintiff-appellant had become the owner of the suit land as per Sections 5 and 8 of the Punjab Tenancy Act, 1887 (hereinafter referred to as the 'Punjab Tenancy Act') and Section 3 of the

Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1952 (hereinafter referred to as the 'Punjab Occupancy Tenants Act') and by taking undue advantage of the wrong revenue entries, the defendant-respondents were adamant on dispossessing the plaintiff-appellant. The prayer in the plaint was that the name of the plaintiff-appellant be incorporated in the relinquishment deed dated 29.07.1983 instead of Nawal (defendant/respondent No.2) and that the plaintiff-appellant be declared owner of the suit land in view of Sections 5 and 8 of the Punjab Tenancy Act and Section 3 of the Punjab Occupancy Tenants Act.

3. On notice defendant-responder No.2 appeared and filed his written statement whereas defendant-responder No.1 did not appear and accordingly was proceeded against *ex parte*.

4. The Trial Court vide judgment and decree dated 21.05.2016 dismissed the suit qua declaration and decreed the same qua injunction. Aggrieved by the same an appeal was preferred by the plaintiff-appellant which appeal was dismissed vide judgment and decree dated 04.09.2017 passed by the First Appellate Court. Hence, the present regular second appeal by the plaintiff-appellant.

5. Learned counsel for the plaintiff-appellant would contend that the plaintiff-appellant had been reflected as being in possession of the suit property and inadvertently the name of his son Nawal (defendant/respondent No.2) was written in the relinquishment deed. It is further the contention that plaintiff/appellant - Sukhram - has since died and now there would be no requirement of the change in the relinquishment deed.

6. Heard.

7. In the present case the case set up by the plaintiff-appellant was that he was continuing as tenant on the suit property. The plaintiff-appellant's claim was based on the relinquishment deed (Ex.PW-3/B) which was executed by Jamnadas in favour of Nawal (defendant/respondent No.2). The declaration sought was that the relinquishment deed be corrected in favour of the plaintiff-appellant. It was further the case set up that Nawal (defendant/respondent No.2) would have no objection if the relinquishment deed was corrected in favour of the plaintiff-appellant. Both the Courts concurrently found that the said was not in the domain of a Civil Court but the domain of the Revenue Court. It was also observed that though the relinquishment deed was in favour of the son of the plaintiff-appellant, namely, Nawal (defendant/respondent No.2) but the plaintiff-appellant was being reflected as a tenant in cultivating possession. It was held that the plaintiff-appellant could not claim himself to be a tenant in cultivating possession without payment of rent as he derived his title from a document which was not in his favour. Learned counsel for the plaintiff-appellant has not been able to convince this Court otherwise. There is not an iota of evidence to show that the plaintiff-appellant had any title on the basis of the relinquishment deed.

8. In view of the above, I do not find any merit in the present appeal. No question of law, much less any substantial question of law, arises in the present case which requires determination by this Court. The appeal,

being devoid of any merit, is accordingly dismissed. Pending applications, if any, also stand disposed off.

16.12.2024
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
 Whether reportable: Yes/No