



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-1785-1992 (O&M)

Reserved on: 12.05.2025

Pronounced on: 02.07.2025

KHEM CHAND (DECEASED) THROUGH LRS

. . . . APPELLANT

Vs.

RANJIT SINGH (NOW DECEASED) THROUGH LR AND OTHERS

. . . . RESPONDENTS

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Argued by: -

- Mr. Vikram Singh Punia, Ms. Yashasvi Rana and Mr. Amit Siwach, Advocate, for the appellants.
- Mr. Sanjiv Gupta, Advocate, for respondent No.1(i)
- Mr. O.P. Goyal, Sr. Advocate with Mr. Yugank Goyal, Advocate, for respondent Nos.1(ii) and 2 to 6.

DEEPAK GUPTA, J.

This is defendants' appeal against reversal. Suit for declaration to declare them as owner in possession of the suit property filed by plaintiffs - Ranjit Singh and others was dismissed by the trial Court on 27.04.1989. However, the appeal filed by the said plaintiffs was accepted by the First Appellate Court and the suit was decreed on 15.01.1992, declaring them to have become owners in possession of the property in dispute.

2. Trial court record was called. Same has been perused with the able assistance provided by Ld. counsel for both the sides.

3. In order to avoid confusion, parties shall be referred as per their status before the Trial Court.

4. ***Plaintiffs' Case:*** The plaintiffs, Ranjit Singh and others, asserted that they had been in cultivating possession of the suit land measuring 22 Kanals and 0 Marla, located in the revenue estate of village Liwaspur, for over 100 years. This possession was either through themselves or through

their predecessors-in-interest, as tenants. They contended that only a fixed nominal rent was paid to the landowners—i.e., the defendants or their predecessors-in-interest. According to the plaintiffs, despite a considerable increase in land value over time, there was a mutual understanding from the inception of the tenancy that neither the rent would be increased nor the plaintiffs or their predecessors would be evicted. This arrangement, they claimed, was consistent with local custom. In light of these circumstances, the plaintiffs claimed that they had acquired occupancy rights under Section 8 of the *Punjab Tenancy Act, 1887*. Consequently, with the enactment of the *Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1953*, which came into force on April 15, 1953, they became the lawful owners of the suit land. Based on these submissions, the plaintiffs sought a declaratory decree affirming their ownership rights. They alleged that despite repeated requests to the defendants to acknowledge their claim, the defendants refused, prompting the filing of the suit.

5. **Defendants’ Response:** In their written statement, the defendants raised preliminary objections. They contended that the plaintiffs had already been ejected from the suit land by an order dated 26.09.1983 passed by the Assistant Collector 1st Grade, thereby terminating the landlord-tenant relationship. Hence, the plaintiffs lacked the locus standi to file the present suit. The defendants denied the plaintiffs' claim of continuous tenancy for over 100 years. Instead, they asserted that the plaintiffs were non-occupancy tenants under Kehri, Shiv Nath, Shadi, and Chandgi (sons of Mir Singh), who themselves were non-occupancy tenants of the First Degree. According to the defendants, the plaintiffs cultivated the land on *Chakota* basis and only became non-occupancy tenants after the death of Kehri, Shadi, and Chandgi about 10–12 years ago. Before that, they were described as ‘*mujara gair maurusi doyam*’ under Kehri and others. It was further submitted that an ejectment application had been filed against the plaintiffs before the Assistant Collector 1st Grade, which was allowed on 26.09.1983, resulting in an ejectment order. The defendants denied the existence of any custom or agreement protecting the plaintiffs from eviction

or ensuring a fixed rent. They contended that the plaintiffs were permitted to cultivate the land merely out of sympathy, considering their poverty. On these grounds, the defendants sought dismissal of the suit.

6. ***Plaintiffs' Rejoinder:*** In reply, the plaintiffs maintained that the Assistant Collector 1st Grade lacked jurisdiction to adjudicate the matter concerning the landlord-tenant relationship, as the plaintiffs had already become owners of the suit land by virtue of the occupancy rights acquired under Section 8 of the *Punjab Tenancy Act, 1887*, read with the *Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1953*. They also clarified that they had challenged the order of the Assistant Collector by filing an appeal. Reiterating their initial position, the plaintiffs denied all averments made by the defendants and once again prayed for a decree in their favour.

7. Necessary issues were framed by the trial Court.

8. Evidence produced by both the parties was taken on record.

9. ***Findings by Ld. Trial Court:*** The Trial Court decided issue No. 1 against the plaintiffs, holding that they had not acquired occupancy rights and therefore, had not become owners of the suit land. On issue No. 2, it was held that the Civil Court had jurisdiction to entertain the matter and so, the issue was decided against the defendants. Issues No. 3 and 4 were also decided against the defendants. Based on these findings, the plaintiffs' suit was dismissed.

10. ***Findings by Ld. First Appellate Court:*** On appeal, the Appellate Court reversed the findings of the Trial Court. It held that the plaintiffs had indeed acquired occupancy rights and, upon the enforcement of the *Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1953*, had become full-fledged owners of the suit land. The Appellate Court further observed that the Assistant Collector lacked the jurisdiction to pass an order of ejectment. Moreover, even the ejectment order was conditional, stating that the plaintiffs would not be evicted until alternative surplus land was

allotted to them—a condition that was never fulfilled. Consequently, the plaintiffs continued as tenants on the suit land. In view of these findings, the Appellate Court set aside the judgment of the Trial Court and decreed the suit, declaring the plaintiffs to be owners in possession of the suit land by operation of law.

11. The present appeal has been filed by the defendants to challenge this reversal dated 15.01.1992.

12. ***Contentions raised by learned counsel for the appellants-defendants:*** It is contended by learned counsel for the appellants-defendants that plaintiffs were not the tenants on the suit land and rather, they are recorded to be *Gair Maurusi Doyam* under Kehri son of Shiv Nath, and Shadi & Chandagi sons of Mir Singh and therefore, they cannot claim to have acquired the occupancy rights in the suit land. It is further urged that plaintiffs failed to prove that there was any agreement between the respective predecessors-in-interest to the parties to the effect that neither the plaintiffs nor their predecessor-in-interest shall be evicted from the land in dispute and that they would be paying the fixed rent of ₹17/- per annum. It is urged that finding to this effect by learned trial Court that plaintiffs failed to prove this assertion, has been wrongly upset by the first Appellate Court. Learned counsel further argues that plaintiffs- respondents have already been ordered to be evicted from the suit land vide order (Ex.D1) passed by Assistant Collector 1st Grade and the later order (Ex.P9) passed by the Collector, which were rightly taken into consideration by the trial Court, while dismissing the suit and that the first Appellate Court committed grave illegality by holding that these orders were not binding on the Civil Court or that these orders were null and void. It is further urged that plaintiffs failed to prove that they are successor-in-interest of Kehri. Besides, the Civil Court did not have jurisdiction in the matter so as to try the present suit between the parties. With all these submissions, learned counsel prayed for setting aside the judgment passed by the first Appellate Court and to restore the

judgment of the trial Court, whereby the suit of the plaintiffs-respondents was dismissed.

13. **Response by learned counsel for the respondent- plaintiffs:**

Refuting the aforesaid contentions, learned senior advocate for the respondent- plaintiffs urged that learned first Appellate Court has come to the right conclusion to the effect that plaintiffs/their predecessor-in-interest being in possession of the suit land since prior to 1909-10 as non-occupancy tenants, on a fixed rate of Chakota, so presumption is required to be raised that there was a promise on the part of the predecessors-in-interest of the defendants not to eject the predecessors-in-interest of the plaintiffs from the suit land. Learned counsel contends that first Appellate Court rightly held that in view of this factual position, plaintiffs had acquired occupancy rights in the suit land and therefore, as soon as the Act of 1953 came into force, plaintiffs became owner of the suit land by operation of law. It is urged that orders (Ex.D1 and Ex.P9) of the Revenue Authorities have been rightly ignored by the first Appellate Court being null and void. With these submissions, prayer is made for dismissal of the appeal.

14. This Court has considered submissions of both the sides and have appraised the record carefully.

15. **Analysis and findings by this court:** One of the contentions raised by learned counsel for the appellants is that in fact, respondents-plaintiffs were not the tenants on the suit land and rather, they are recorded to be *Gair Maurusi Doyam* under Kehri son of Shiv Nath, and Shadi & Chandagi sons of Mir Singh and therefore, they cannot claim to have acquired the occupancy rights in the suit land. In order to appreciate this contention, it is required to look into the evidence placed on record by the parties.

16. Perusal of the revenue excerpt/*intikhab* (Ex.P1) would reveal that it starts from the year 1909-10. Initially, Sheo Nath son of Dungar is recorded to be owner of 16 Bigha 10 Biswa of land; whereas Sheo Nath son

of Dhani to the extent of $\frac{1}{2}$ share, and Shadi & Chandagi sons of Mir Singh son of Dhani to the extent of remaining $\frac{1}{2}$ share are recorded to be *Gair Maurisian* on the said land. Out of this total land, 11 Bigha 19 Biswa is shown to be in possession of above mentioned Gair Maurisian i.e. Sheo Ram son of Dhani, and Shadi & Chandagi sons of Mir Singh; whereas 3 Bigha 11 Biswa is shown to be in their possession through one Kuda son of Meda. Total Chakota of the entire land is shown to be ₹17 + 8 anna. Same entries are repeated in next jamabandi for the year 1911-12 with the difference that Kuda son of Meda is no longer in possession any portion of the total land 16 Bigha 10 Biswa and thus, entire land is now shown to be in possession of *Gair Maurisian* i.e. Sheo Nath son of Dhani, and Shadi & Chandagi sons of Mir Singh. Jama-bandi for the year 1915-16 contains the same entry.

17. In 1923-24, same entries regarding ownership and tenancy are repeated with the difference that total land is now shown to be 28 Bigha 3 Biswa including the above mentioned 16 Bigha 10 Biswa and the total Chakota is still ₹17/-. In next jama-bandi for the year 1931-32, total land is shown to be 17 Bigha including the previous land with the Chakota as ₹16/-. Same entries are repeated in jamabandi for the year 1935-36, 1939-40 and 1943-44.

18. The next jamabandi as referred in the revenue excerpt is that of year 1955 and as it appears that in the meantime, consolidation has taken place, as in this jamabandi, total land is now shown to be 22 Kanal, which is the suit land. This jamabandi as well as the jamabandi for the next period i.e. 1959-60 would reveal that by now, successors-in-interest i.e. plaintiffs have been recorded to be owner of the suit land in place of previous owner Sheo Nath son of Dungar; whereas Kehri son of Sheo Nath son of Dhani to the extent of $\frac{1}{2}$ share, and Shadi Ram & Chandagi sons of Mir Singh son of Dhani to the extent of remaining $\frac{1}{2}$ share are recorded to be tenant on the suit land with total Chakota to be ₹17/-.

19. The subsequent Jamabandies for the year 1963-64 onwards would reveal that though Kehri son of Sheo Nath to the extent of $\frac{1}{2}$ share

and Shadi & Chandagi sons of Mir Singh to the extent of remaining ½ share are still shown to be *Gair Maurisian* over the suit land, but they are now recorded as *Gair Maurisian Avval (first grade)*; whereas, their children i.e. Ranjit & Prithi son of Shadi to the extent of 12 Kanal 16 Marla; Ram Singh son of Shadi to the extent of 3 Kanal 4 Marla, and Smt. Bharto & Smt. Nagina widows of Chandagi to the extent of 6 Kanal are shown to be *Gair Maurisian Doyam (second grade)*. All these *Gair Maurisian Doyam* recorded to be in possession are the legal heirs of Mir Singh son of Dhani and their possession is shown in the capacity of '*Bila Lagan Bewajah Apasdari*' i.e. on account of mutual understanding within the family members. The total Chakota is still recorded to be ₹17/-.

20. Thus, the revenue entries right from the year 1909-10 till date would clearly indicate that it is the plaintiffs/their predecessors-in-interest who have been in possession of the suit land as gair maurisians. The plaintiffs' possession is shown as *Gaur Maurisian Doyam* under their respective predecessors i.e. *Gair Maurisians Avvals*, namely Kehri, and Shadi & Chandagi not as sub-tenants but on account of the mutual understanding as it is without payment of any rent/chakota to the *Gair Maurisians Avvals*. This cannot be considered to be sub-tenancy under the *Gair Maurusi Avvals* because it was with the mutual understanding between the family members that land was given to cultivate the same among the family members on different khasra numbers. The total chakota of the land has been consistent i.e. ₹17/- per annum.

21. In the aforesaid facts and circumstances, the first Appellate Court did not commit any error in coming to the conclusion that there is strong presumption that there was mutual understanding between predecessors-in-interest of the plaintiff and predecessors-in-interest of the defendants to the effect that predecessors-in-interest of the plaintiffs or the plaintiffs will not be ejected from the suit land. Since the possession has been claimed by the plaintiffs from the time of their predecessor-in-interest for more than 150 years, obviously there could not be any oral evidence so

as to prove any such understanding. It is from the documentary evidence i.e. the revenue entries that such presumption was liable to be raised and has been rightly raised by the first Appellate Court. No value could be attached to the fact that PW-1 Khem Chand could not prove any such oral understanding considering the fact that predecessors-in-interest of none of the parties could be alive at the time when the suit was filed.

22. The contention of learned counsel for the appellants-defendants to the effect that ejectment orders (Ex.D1) dated 27.04.1968 in respect of 12 Kanal 16 Marla of the suit land out of the total land has already been passed by the Assistant Collector 1st Grade, Sonipat and that later on another ejectment order dated 26.09.1983 (Ex.P8) confirmed by the Collector, Sonipat vide Ex.P9 have already passed in respect of suit land and therefore, the relationship of landlord and tenant between the parties had come to an end, has no merit and the said contention has been rightly negated by the learned First Appellate Court.

23. A perusal of Ex.D1 shows that the present defendants—Khem Chand and others (*appellants herein*)—had filed an application under Sections 14(A)(1) and 9(1)(i) of the Punjab Security of Land Tenure Act against Kehri and others, who are the plaintiffs or their predecessor-in-interest. They asserted that, being small landowners with less than 30 standard acres of land in their ownership and cultivating possession, they were entitled to reclaim the disputed land. It was alleged that the respondents (*plaintiffs herein*) were in cultivating possession of more than 5 standard acres, excluding the land in question, and were thus liable to eviction. The Assistant Collector 1st Grade, Sonipat, by order dated 27.04.1968 (Ex.D1), held that Khem Chand and others qualified as small landowners. However, it also came to light that Ranjit, Kehri, and others were in possession of less than 5 standard acres of land, apart from the disputed parcel measuring 12 Kanals 16 Marlas. While directing their ejectment from the said land, the Collector made the order conditional—

stating that eviction would not be enforced until the respondents were allotted alternative land and resettled on surplus area.

24. It is neither the pleaded case of the defendants- appellants herein nor there is any such evidence to show that plaintiffs/their predecessors were ever allotted any alternative land in the surplus area. As such, the plaintiffs/their predecessors continued to be in possession of the suit land has *Gair Maurusi tenants*.

25. Learned first Appellate Court has rightly observed that plaintiffs-respondents herein having continued in cultivating possession as non-occupancy tenants on the suit land on payment of the fixed rent of ₹17/- per annum, had acquired the occupancy rights and in view of the provisions of the *Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1953*, they had automatically become owner of the suit land by means of operation of law. As such, the order (Ex.D1) was null & void and could not be taken into account.

26. Similarly, order dated 26.09.1983 (Ex.P8) by Assistant Collector 1st Grade, Sonipat ordering the ejectment of the plaintiffs from the suit land on account of non-payment of the rent; or the order dated 07.08.1984 (Ex.P9) affirming the aforesaid order could not be taken into consideration, as plaintiffs had already become owner of the suit land by operation of law.

27. It is the contention of learned counsel for the appellants that once the ejectment orders had been passed by the Competent Revenue Authorities, the principle of res judicata applies, as those orders are never challenged and as such, the Civil Court did not have jurisdiction in the matter. Learned counsel has referred to ***"M/s Faime Makers Pvt. Ltd. v. District Deputy Registrar Co-operative Societies, Mumbai"*** 2025 INSC 423, wherein after referring to ***"Ujjam Bai v. State of U.P." (1962) SCC Online SC 8***, it was held that principle of res judicata equally applies to quasi-judicial bodies. Whenever a judicial or quasi-judicial tribunal gives a finding of law or fact, its findings cannot be impeached collaterally or in a second round

and are binding until reversed in appeal or revision by way of writ proceedings. It was held further that characteristics attributes of a judicial act or decision is that it binds, whether right or wrong. Thus, any error either of fact or law committed by such bodies cannot be controverted otherwise by way of an appeal or revision or a writ unless the erroneous determination relates to the jurisdictional matter of a judicial or quasi-judicial tribunal.

28. Thus even as per the view taken in ***Ujjam Bai (supra)*** as referred in ***M/s Faime Makers Pvt. Ltd. (supra)***, the order of the quasi-judicial authority, can be controverted, in case the erroneous determination relates to jurisdictional matter of that body.

29. In the present case, as the orders (Ex.P8) passed by the Assistant Collector 1st Grade, which is affirmed by the Collector, Sonipat on 07.08.1984 (Ex.P9) would reveal that Khem Chand etc. had sought ejectment of the plaintiffs- Ranjit etc. from the suit land on the ground of non-payment of the rent. The plaintiffs herein had resisted the claim by pleading that they had already become owner of the suit land by virtue of Section 8 of the *Punjab Tenancy Act* to be read with the provisions of *Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1953*. It was specifically pleaded by them that revenue authorities did not have jurisdiction in the matter. However, the revenue authorities went ahead and decided the ejectment petition and ordered the ejectment.

30.1 The question is as to whether such an ejectment order can be considered by the Civil Court in subsequent proceedings. A similar issue was considered Hon'ble Supreme Court in ***"Rachhpal Singh v. Dalip Singh and Others"* AIR 1987 SCC 2205**. The case originated when the appellants sought eviction of Dalip, the respondent, from the suit land on grounds of rent default under Section 77(3) of the *Punjab Tenancy Act, 1887*. The Revenue Court decreed eviction, after which Dalip filed a civil suit claiming to be a mortgagee rather than a tenant, challenging the jurisdiction and validity of the eviction order. While the trial Judge dismissed Dalip's suit,

the first appellate court reversed this decision, leading to an appeal that reached the Supreme Court.

30.2 The Hon'ble Supreme Court, while upholding the Full Bench decision of the High Court, held that the eviction order did not attract the bar of res judicata. The primary reason was that the Revenue Court lacked the jurisdiction to decide Dalip's status—whether he was a tenant or a mortgagee. Therefore, the subsequent civil suit was maintainable. The Court emphasized that for the principle of res judicata to apply, the earlier forum must have had the authority to adjudicate the core issue—in this case, the nature of Dalip's possession. Since the Revenue Court's competence was limited to eviction on grounds such as rent default, and it had no power to determine claims involving title or mortgage rights, its decree could not conclusively settle the dispute over Dalip's legal status. Accordingly, the civil suit questioning the eviction could proceed, as the earlier decision had not addressed the fundamental question of title. The Supreme Court also referred to Sections 98 and 99 of the Punjab Tenancy Act, clarifying that the powers of reference, revision, or review under the Act did not expand the limited jurisdiction of the Revenue Court to include adjudication of title-related matters.

31. In view of the above legal position, no advantage can be given to the appellants- defendants of the ejectment orders (Ex.D1) or (Ex.P8/P9), as those orders were passed by the revenue authorities without having jurisdiction to decide the issue of title.

32. Another contention raised by learned counsel for the appellants is that a non-occupancy tenant cannot be declared as occupancy tenant. Reliance is placed upon ***“Tara Singh v. Bihari Lal” 2018 (1) RCR (Civil) 443***; and ***“Mandi Adampur Co-operative Society Ltd. v. Mohar Singh” 2019 (1) RCR (Civil) 185***, wherein ***“Jaleb Khan v. Commissioner Gurgaon Division” 2009 (4) RCR (Civil) 385*** had been relied. In ***Tara Chand's case (supra)*** case, tenant was inducted as such on the land at the rate of ₹25/-, which was later on enhanced to ₹47/-. It was in these facts that it was

observed by this Court that though the rate of rent was meager but it was not proved on file that it was only equivalent to land revenue/cesses payable to the aforesaid land and therefore, non-occupancy tenant could not acquire the right of the tenancy rights.

33. I am afraid that no advantage can be given to the appellants of cited authority, as the facts in the present case are quite distinguishable. In this case as has already been observed that right from the year 1909-10, plaintiffs and prior thereto, their predecessor-in-interest have been shown to be in possession of the suit land as non-occupancy tenants on fixed rent of ₹17/- per annum, which has not been enhanced till date. There is absolutely no evidence on the part of the defendants (*appellants herein*) that said rent was more than the land revenue or cesses payable on the land revenue at any point of time.

34. On account of entire discussion as above, this Court holds that the present appeal has no merit. There is no ground for this Court to interfere in the well-reasoned findings recorded by learned First Appellate Court, which are based on proper appreciation of legal as well as the factual position. As such, holding the present appeal to be devoid of any merit, same is hereby dismissed.

(DEEPAK GUPTA)
JUDGE

02.07.2025
Vivek/Neetika Tuteja

Whether speaking/reasoned?	Yes
Whether reportable?	Yes