

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

103

**RSA-2379-1994 (O&M)
Date of decision : 27.02.2025**

Rakha**..... Appellant**

versus

Shella Devi (deceased) through her LR's and ors. Respondents

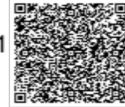
CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. B.K. Mehta, Advocate
for the appellant.

Ms. Armaan Saggar, Advocate
for respondents No.1(i) & 2.

PANKAJ JAIN, J. (Oral)

1. Defendant is in appeal.
2. Plaintiffs filed suit for possession of the suit land as detailed out in the head note of the plaint, claiming ownership over the suit land. As per the plaintiffs, defendant was inducted as cultivating tenant. However, defendant filed suit for permanent injunction against the plaintiffs denying relationship. Defendant rather claimed title over the suit land. Plaintiffs claimed that the defendant having denied title of the plaintiffs has attained status of a trespasser in respect of the suit land and the plaintiffs are entitled for possession thereof.
3. Suit was contested by the defendant pleading that the jurisdiction of the Civil Court was barred under Section 13 of the Punjab Village Common Lands (Regulation) Act, 1961. Defendant claimed that the property being shamlat deh vests in gram panchayat and defendant is in possession of the suit land as gair marusi co-sharer.



Plaintiffs having no title or interest over the suit property have no right to claim possession. Defendant further relied upon Civil Court decree dated 01.06.1987. Defendant denied relationship of landlord and tenant.

3A. On the basis of the pleadings, following issues were framed:-

- “1. Whether Shri Pran Nath is the general attorney of the plaintiff No.1?OPP.
2. Whether Shri Dwarka Dass is the general attorney of the plaintiff No.2?OPP.
3. Whether the plaintiffs are entitled to a decree for possession?OPP.
4. Whether the plaintiffs are entitled to a decree for possession?OPP.
5. Whether the suit is not maintainable in the present form?OPD.
6. Whether the civil court has no jurisdiction.
7. Whether the suit land is shamlat deh and vests in the Gram Panchayat?OPD.
8. Relief.”

4. Plaintiffs proved lease deeds Ex.P3 and Ex.P4 executed by the plaintiffs in favour of the defendant-Rakha qua the suit land. Trial Court while returning finding on issue No.1 to 3 held that the plaintiffs are proved to be the owners and in possession through Rakha-defendant over the suit land. Apart from the oral version of DW2 and DW3 regarding ownership, defendant failed to lead any cogent piece of evidence to prove his ownership. Defendant having denied the title of the plaintiffs cannot retain possession of the suit land after the same has been reclaimed by the owners. Court of the first instance decreed the suit filed by the plaintiffs.



5. Dissatisfied defendant preferred appeal. Lower Appellate Court affirmed the findings recorded by the Trial Court and dismissed the appeal.

6. Assailing the findings recorded by the Courts below, counsel for the appellant submits that the plaintiffs have not been able to prove the identity of the property. They have not been able to prove the lease deeds Ex.P2 and P3 relate to the land in question. The same are in admissible in evidence, as the same have been executed for a period of more than 12 months.

7. *Per contra*, Ms. Armaan Saggar, counsel for the respondents-plaintiffs submits that the plaintiffs proved their ownership over the suit land by leading cogent evidence in form of record of rights. Lease deeds executed by the plaintiffs in favour of defendant were proved. After analyzing the entire evidence, pure findings of fact have been recorded by the Courts below. Lower Appellate Court being the final Court of fact has recorded findings after re-appreciating the entire evidence on record. Under the garb of the instant second appeal, plaintiffs cannot ask this Court to re-appreciate the entire evidence and substitute its findings. She thus, submits that the present appeal deserves to be dismissed.

8. I have heard counsel for the parties and have carefully gone through the records of the case.

9. So far as lease deeds brought on record by the plaintiffs are concerned, counsel for the appellant candidly accepts that the same pertain to the land in question. He however, pleads that the same are inadmissible in evidence being unregistered deeds for more than 01



year. This Court finds that the aforesaid plea cannot be accepted. Trite it is that an unregistered lease deed can be considered for collateral purposes to ascertain the nature of possession of the parties. The lease deeds Ex.P2 and P3 despite being unregistered have been rightly considered by the Courts below to ascertain the nature of the possession of the appellant. The appellant having denied title of his own landlord, is not entitled for any protection. The moment the tenant asserts hostility claiming title, landlord is within his right to reclaim the possession by filing regular civil suit. The Courts below thus, rightly held the plaintiffs entitled to possession being owners of the suit land.

10. In view of above, findings no merits in the present appeal, the same is ordered to be dismissed.

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

27.02.2025
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No