



RSA-354-1997 (O&M)

-1-

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

205(3)

RSA-354-1997 (O&M)
Date of decision :12.11.2025

CHUNIAN PURSHARTHI COOP. MULTIPURPOSE SOCIETY LTD.

... APPELLANT

VERSUS

RAJ DULARI AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Adarsh Jain, Senior Advocate with
Mr. Amandeep Kaur, Advocate
for the appellant.

PARMOD GOYAL, J.

1. The plaintiff-appellant are in the present regular second appeal challenging the judgment and decree dated 05.12.1996 passed by the First Appellate Court whereby the appeal filed by the defendants-respondents was allowed and judgment and decree passed by the Court of first instance dated 30.07.1996 decreeing the suit for possession by way of pre-emption was reversed.

2. Brief facts relevant to the present *lis* are that defendants-respondents Nos. 3 to 7, being owners of land measuring 7 kanals 14 Marlas comprised in Khewat No. 1 (min), Khatoni No. 4 (min), Khasra No. 700 (7-14) situated in Village Bazidpur, Tehsil Thanesar, District Kurukshetra (hereinafter referred to as “suit land”) sold the said land to defendant Nos. 1 and 2 for a total sale consideration of ₹ 1,00,000/- vide sale deed dated 06.03.1992. The plaintiff-appellant filed a suit for possession by way of pre-emption claiming that the society was a tenant over 7 kanals 14 Marlas comprising in Khasra no. 700, out of the land sold by the vendor



to the Defendants/respondents and, as such, had a preferential right of pre-emption. On this basis, the plaintiff-appellant filed a suit for possession of the suit land by way of preemption.

3. The learned First appellate Court, after considering the pleadings and the evidence led by the plaintiff-appellant, concluded that there was a failure to prove the tenancy on the part of the plaintiff-appellant. The Court held that no payment of rent had been proved. It was further observed that in earlier litigation between the plaintiff-appellant society and the owners, the plaintiff-appellant/ society had not been held to be tenant because it had failed to pay the annual lease money to the owners after the expiry of the lease deed; therefore, the relationship of landlord and tenant had ceased to exist between the plaintiff-appellant and the owners. Likewise, in another case, the tenancy claimed by the plaintiff-appellant against the owners had been negated, and the plaintiff-a had been denied compensation for acquired land on the ground that no tenancy existed.

4. The learned first appellate Court has rightly held that, for determining the existence of tenancy, mere entries in the column of cultivation are not sufficient. Both the column of cultivation and the column of rent are required to be considered to ascertain whether a relationship of landlord and tenant exists between the parties. The Court observed that in the *jamabandi* (Ex. P-4), the column of rent was shown to be blank. It further held that the plaintiff – appellant had failed to prove payment of rent. Accordingly, the Court concluded that the plaintiff-appellant had failed to establish his tenancy over the suit land, and thus having no superior right of pre-emption. Consequently, the suit of the plaintiff-appellant was dismissed and appeal by defendants-respondents was accepted.

5. Learned counsel for the plaintiff-appellant argued that merely because the plaintiff-appellant failed to prove the payment of rent, it was not sufficient to



hold that the plaintiff-appellant was not a tenant. There is no dispute regarding the legal proposition advanced on behalf of the plaintiff-appellant that actual payment of rent is not essential for the existence of tenancy. However, a person claiming tenancy must be liable to pay rent for the land, and therefore, the existence of an agreement to pay rent is a pre-requisite for establishing the relationship of landlord and tenant.

6. The witness examined by the plaintiff-appellant, i.e., PW-1, Gurnam Singh, admitted that the lease, which had originally been granted, expired in 1964 and was never extended thereafter. He also admitted that no rent had been paid after the expiry of the lease. The subsequent *jamabandi* (Ex P4) also show the column of rent to be blank. These facts clearly indicate that after the expiry and non-extension of the lease, the status of the plaintiff-appellant was merely that of a trespasser. In the absence of any agreement to pay rent after the expiry of the lease period, no tenancy in favour of the plaintiff-appellant can be inferred. It is worth noticing that along with suit land, plaintiff-appellant had taken land of three villages measuring more than 350 bighas for total lease of Rs. 19,000/-. In earlier judgment date 28.11.1980 passed by Senior Sub Judge, Kurukshetra it was held that lease deed was never extended after 1964 and plaintiff-appellant is not a tenant.

7. The first appellate court has rightly relied upon the previous judgments Ex. D-2 to Ex. D-4 against the plaintiff-appellant relating to a different parcel of lands which were also on lease along with suit land with consolidated lease rent while recording its findings. Suit land and land under Ex. D-2 to Ex. D-4 both were under same lease agreement. Therefore, the conclusion drawn by the First Appellate Court that the plaintiff-appellant failed to prove the existence of tenancy over the suit property and consequently cannot claim the right of pre-emption, does not call

for interference in Regular Second Appeal.



RSA-354-1997 (O&M)

-4-

8. Findings recorded are pure findings of fact based on appreciation of evidence and since no substantial question of law arises, this Court cannot interfere with the findings first appellate court unless it is shown to be perverse. No such conclusion is possible in present case. Accordingly, the present appeal is dismissed.

9. Pending miscellaneous application(s), if any, shall also stand disposed of.

12.11.2025

manoj

(PARMOD GOYAL)

JUDGE

Whether speaking/reasoned

Yes

Whether reportable

Yes/No