



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

RSA-4380-2018 (O&M)
Reserved on: 01.05.2025
Pronounced on: 27.05.2025

Shahnawaj Khan and others

...Appellants

Vs.

Laxmi Narain and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Abhimanyu Singh, Advocate
 Mr. Anupal Singh Tanwar, Advocate
 for the appellant(s).

ANIL KSHETARPAL, J.

I Brief Facts of the Case:-

1. The plaintiffs assail the correctness of concurrent findings of fact arrived at by the Courts below while dismissing their suit for possession by way of redemption of mortgage in respect of the suit land.
2. The plaintiffs claim to be successors in interest of Sh. Nawal Khan, who is stated to have mortgaged his occupancy tenancy rights in favour of Sh. Jumma on 23.03.1944, who migrated to Pakistan in the year 1947. It is also claimed that in the consolidation of holdings held in the village in the year 1950, the suit land was allotted to Sh. Nawal Khan and in view of the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1952, he has become owner of 31 kanals 05 marlas land.



3. On the other hand, the defendants claim that Central Government allotted the land to Sh. Sham Dass and others, who sold the property in favour of the defendants vide two sale deeds executed on 13.05.1986 and 04.06.1986.

4. Both the Courts came to the conclusion that the plaintiffs have failed to connect the suit land with the mortgaged land. They have also failed to prove the allotment made in favour of Sh. Nawal Khan by the consolidation authorities. Moreover, the vesting of land in favour of Sh. Nawal Khan could have taken place, only if, he was in possession of the aforesaid land during the enforcement of '1952 Act'. It is significant to note here that it is the case of the plaintiff that the property was mortgaged with Sh. Jumma in the year 1944.

II Analysis and Discussion:-

5. Heard the learned counsel representing the appellant at length and with his able assistance perused the paper-book.

6. It would be noted here that the appellants initially challenged the allotment in favour of Sh. Sham Dass and others before the custodian authorities. Ultimately, the revision petition filed by the predecessor-in-interest of the plaintiffs was dismissed by the Custodian General on 11.07.1988. Thereafter, the plaintiffs filed an application for seeking refund of mortgage money, which they had deposited. After having received back the amount, the plaintiffs filed the suit in the year 2013.

7. Moreover, the plaintiffs have failed to prove that the suit land was allotted to them in lieu of the land mortgaged by them. Additionally, the



plaintiffs do not claim that their predecessor-in-interest Sh. Nawal Khan was the owner. The plaintiffs could claim the benefit of the provision of '1952 Act' only after proving that they were in possession of the property when the '1952 Act' came into force.

IV Decision:-

8. Keeping in view the aforesaid facts, no ground to interfere is made out.
9. Hence, the appeal is dismissed.
10. All the pending miscellaneous applications, if any, are also disposed of.

**(ANIL KSHETARPAL)
JUDGE**

27.05.2025

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No