

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****126****RSA-318-2023 (O&M)****Date of decision: 15.01.2026****Suraj Mal and others****...Appellant(s)****Vs.****Aman and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Paramvir Singh, Advocate for the appellants.

NIDHI GUPTA, J.

Plaintiffs are in Second Appeal against the concurrent judgments and decrees of the learned Court below; whereby suit filed by the appellants for declaration as owners in respect of the suit property, has been dismissed by both the Courts below.

2. It is *inter alia* submitted by learned counsel for the appellants that the plaintiffs have been in cultivating possession of the suit land as occupancy tenants since the year 1942. It is submitted that plaintiffs had proved their possession and occupation over the suit land by way of Jamabandi for the years 1950-51, 2006-2007 and khasra girdawari of 2009-2010 (Ex.P1 to Ex.P19); which were duly attached with the plaint. It is submitted that plaintiffs have been regularly paying rent which has never been enhanced by the landlord as there was an Agreement between the parties and their predecessor-in-interest at the inception of tenancy that the plaintiffs and their successors-in-interest will never be



ejected from the suit land. Learned counsel contends that therefore, as per Sections 5 and 8 of the Punjab Occupancy Tenants (vesting of Proprietary Rights) Act, 1953, they have become full fledged owners of the suit land.

3. Moreover, plaintiffs have proved their suit on the basis of oral and documentary evidence in the shape of Ex.P1 to Ex.P19. The evidence produced by PW1 went un rebutted as respondents were exparte before the learned Courts below. Learned counsel contends that in view of the above facts, especially in view the fact that evidence of the appellants was un rebutted; the Courts below were in error in non-suiting the appellants. It is accordingly prayed that the present Second Appeal be allowed; and the impugned judgments and decrees of the learned Courts below be set aside.

4. No other argument is raised by learned counsel for the appellants. I have heard Id. counsel and perused the case filed in detail. I find no merit in the submissions advanced on behalf of the appellants.

5. It is the case of the appellants that they are the occupancy tenants over the suit property. In order to prove that appellants had occupancy rights over the suit property, appellants had not examined anyone else, except themselves. Even no independent witness or elderly villager or revenue official has been examined by the plaintiffs to prove their case. Moreover, it is concurrent finding of fact by both the Courts below that the appellants have been unable to prove their status as occupancy tenants over the suit property. The learned Courts below have



returned a positive finding that as per the revenue record, appellants are shown to be "*Tenants at Will*" over the suit property and not occupancy tenants. Ld. Counsel for the appellant is unable to dispute this finding.

6. Furthermore, it is the case of the appellants that the suit property had been given to them by their ancestors on payment of land revenue which was nominal; and even after rise of price, rate of rent was never raised. However, it is settled law that in order to prove status as occupancy tenants, appellants were required to firstly prove that they have been in possession over the land in dispute continuously for 30 years; and also that they have not paid rent for the land beyond the amount of land revenue thereof. Appellants have been unable to prove the same.

7. It is secondly contended on behalf of the appellants that an Agreement had been entered into between the parties, as per which, it was agreed that appellants would never be ejected from the suit property. However, appellants had failed to place on record any such Agreement. In the entire plaint, there is not even a whisper as with whom the plaintiffs had executed the said Agreement. Thus, assertions of the plaintiffs are vague, and the alleged Agreement remained unproved.

8. Last but not the least, the plaintiffs have failed to link the suit land with their previous khasra numbers. It has come on record that the land in the village was reconstituted during consolidation proceedings. However, appellants have been unable to link the present suit land with their previous khasra numbers.



9. Even otherwise, present Second appeal is liable to be dismissed on the short ground that this Court in Regular Second Appeal has limited jurisdiction to interfere in the concurrent findings of facts returned by the learned Courts below. The Hon’ble Supreme Court in *M/s. Shivali Enterprises v. Godawari (Deceased) (SC): Law Finder Doc Id # 2034559* has held that no matter howsoever incorrect or grossly erroneous the concurrent findings of the learned courts below may be, this Court in the Second Appeal can interfere in the concurrent findings only where there is an error in law or procedure. In the present case, no such error in law and procedure has been made out by learned counsel for the appellants.

10. Learned counsel for the appellants is unable to dispute or controvert the above said factual and legal position.

11. In view of the above, no ground is made out to interfere in the concurrent judgments and decrees, and findings of fact of the learned Courts below. The present Regular Second Appeal is hereby **dismissed**.

12. Pending applications, if any, stand disposed of.

15.01.2026

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No