



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

**RSA No. 2136 of 2023 (O&M)
Date of Decision: 01.05.2026**

Surjit Kaur

..... Appellant-plaintiff

Versus

State of Punjab through Collector Hoshiarpur
and others

..... Respondents-defendants

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present:- Mr. Gurmeet Singh, Advocate
for the appellant-plaintiff.

HARKESH MANUJA, J. (ORAL)

The plaintiff is in appeal. First appeal filed by the plaintiff was dismissed by the learned First Appellate Court. For the sake of convenience, the parties are referred to as per their status in the Civil Suit.

[2] By way of present appeal, challenge has been laid to the judgment and decree dated 25.04.2019 passed by the Court of learned Additional District Judge, Hoshiarpur (**hereinafter to be referred as “First Appellate Court”**), whereby an appeal filed at the instance of appellant-plaintiff against the judgment and decree dated 09.12.2016 passed by the Court of Civil Judge (Senior Division), Hoshiarpur (**hereinafter to be referred as “trial Court”**), dismissing her suit for declaration and mandatory injunction, was dismissed; thereby affirming the judgment and decree passed by the learned trial Court.

[3] Briefly the facts of the present case are that the plaintiff filed a suit for declaration while pleading that she was entitled for grant of conveyance deed in respect of land measuring 28 kanals out of 114 kanals comprised in Khasra No. 7//21, 26//1, 2, 3, 4, 6, 7, 8, 9, 12/2, 13, 26/14, 15, 16, 18, 24, 25, 27//10, 11, 20, 28/10 situated in the revenue estate of Village Purhiran Had Bast No. 251, Tehsil & District Hoshiarpur as per *jamabandi* and *khasra girdwari* for the year 2007-08 and also sought mandatory injunction directing the defendants to issue conveyance deed in her favour on the ground that she was the widow of late Bhagat Ram son of Rakha Ram and the agricultural land measuring 28 kanals was allotted to him by the State Government in the year 1972 and since then, the husband of the plaintiff had been cultivating, using and enjoying the suit land. It was averred that since the death of her husband, the plaintiff was cultivating the suit land and the entries in the revenue record were also reflected the name of husband of the appellant-plaintiff as 'Patedar'; the plaintiff was regularly paying the rent/Chakota and thus, she was entitled for the conveyance deed. The case set up by the plaintiff was that despite making several representations to the defendants to transfer the title of the suit property in her name, the defendants declined the request of the plaintiff by referring some instructions issued by the Punjab Govt. regarding denial of the sale in respect of the land which falls within five kilometer diameter of the Municipal Council of the State; in fact, the aforesaid ban was imposed in the year 1985 and the present allotment was made to Hakam Singh (deceased) in the year 1971-72 and that ban was not effective *qua* the land of the plaintiff as the same had no retrospective

effect. Further, it was pleaded that similarly situated allottees of the area namely Hazari Ram, Sarwan Kumar sons of Rakha Ram had filed Civil Suit No. 524 of 11.09.1990 which was decreed vide decision dated 18.02.2022 by the then learned Additional Civil Judge (Sr. Division), Hoshiarpur. Thereafter, the above-said allottees were granted P-rights of the Inferior Evacuee land and also had mutation sanctioned in their favour. Therefore, it was pleaded that the plaintiff having the same case was entitled to the declaration and mandatory injunction directing the defendants to issue conveyance deed of the suit land. Also, notice under Section 80 CPC was issued to the defendants on 31.01.2011, however, the defendants did not accede the request of the appellant-plaintiff. Hence, the suit was filed.

[4] Upon notice, learned Govt. Pleader appeared on behalf of respondents-defendants; filed written statement and took the preliminary objections that the husband of the plaintiff was not allottee and possession of the plaintiff was illegal; the suit was not maintainable in the present form; the suit was bad for mis-joinder and non-joinder of necessary parties; the suit was time barred; the plaintiff had no cause of action to file the present suit. No tenancy between the husband of the plaintiff and State had been proved on record. On merits, the possession of the plaintiff was also denied and *inter alia* prayed for dismissal of the suit.

[5] Replication was not filed. From the pleadings of the parties, the learned trial Court, vide order dated 22.03.2012, framed the following issues:-

1. *Whether the plaintiff is entitled to a decree for declaration as prayed for in the head note of the plaint? OPP*
2. *Whether the plaintiff is entitled to a decree for mandatory injunction as prayed for in the head note of the plaint? OPP*
3. *Whether the suit filed by the plaintiff is not maintainable? OPD*
4. *Whether the suit of the plaintiff is bad for mis-joinder of the parties and non-joinder of the necessary parties? OPD*
5. *Whether the suit is within limitation? OPP*
6. *Whether the suit filed by the plaintiff is without any cause of action? OPD*
7. *Relief.”*

[6] The learned trial Court, vide its judgment and decree dated 09.12.2016, dismissed the suit, filed at the instance of appellant-plaintiff, while deciding Issue Nos. 1, 2, 3 & 6 against the appellant-plaintiff and Issue Nos. 4 & 5 against the respondents-defendants.

[7] Aggrieved thereof, the appellant-plaintiff filed the first appeal, which also came to be dismissed vide judgment and decree dated 25.04.2019 passed by the learned First Appellate Court. Hence, the present appeal.

[8] Impugning the aforesaid judgments and decrees dated 09.12.2016 and 25.04.2019, learned counsel for the appellant-plaintiff submits that the land in dispute was allotted to the husband of the plaintiff, namely, Bhagat Ram; thus after his death, she being the legal heir; having possession of the suit land as well as currently cultivating it, was entitled

for the conveyance deed as per the State Rule.

No other argument has been raised on behalf of the appellant-plaintiff.

[9] After hearing learned counsel for the appellant and having gone through the paper-book / records, I am unable to find substance in the submission(s) made on behalf of the appellant-plaintiff.

[10] In the present appeal, though the appellant-plaintiff has been claiming the ownership of the property in dispute on the ground that she was regularly paying rent to the respondents-defendants, but failed to produce even an iota of valid documentary evidence proving any receipt in this regard. As per material available on record, the learned trial Court found that no document was brought on record to draw an inference that the land in dispute was ever allotted to the husband of the plaintiff. No allotment letter was placed on record by the plaintiff to establish the allotment to her husband-Bhagat Ram (since deceased). Besides it, as per *jamabandi* for the year 2007-08 (Exhibit P-1), in column No.4, the Provincial Government was shown as owner of the suit land, whereas in column No. 5 thereof, the husband of appellant-plaintiff, namely, Bhagat Ram son of Rakha Ram was shown as '*Gair Marusi / Nazaiz Kashtkar*'. Further, in Column No. 9 which needs to be read with Column No. 5, to find out the nature of possession and also as to whether any rent/chakota has been paid or not; it was mentioned as *Gair Marusi Nazaiz Kashtkar*, **meaning thereby that "tenant at will and in illegal possession"**. Even from the cross-examination of the plaintiff and the statement of other witnesses, payment of chakota was proved on record. In such

circumstances, where the husband of the plaintiff can at best be called a *Gair Marusi* and it is well settled principle of law that *Gair Marusi* tenant can never acquire status and rights of *Marusi* (occupancy tenant), the appellant-plaintiff failed to substantiate her plea to derive the title from her husband and consequently, she cannot be held entitled to grant of conveyance deed with respect to the suit land.

[11] Accordingly, in view of the discussion made hereinabove, finding no illegality or perversity with the concurrent findings of fact recorded by the Courts below and there being no misreading or misinterpretation of either the pleadings or the evidence available on record; the present appeal, being devoid of merits, is hereby **dismissed**.

[12] Since, the main appeal has been decided / dismissed, no orders are required to be passed in the pending applications including the applications for delay in filing and re-filing the appeal and the same shall stand disposed off.

May 01, 2026
'dk kamra'

(HARKESH MANUJA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No