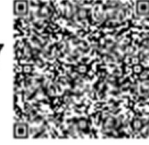


2025:PHHC:076927



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

**RSA-51-2022 (O&M)  
Reserved on : 26.05.2025  
Pronounced on : 01.07.2025**

DESH RAJ (DECEASED) THR LRS AND ORS ....Appellants

VERSUS

KAPIL AND OTHERS ....Respondents

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Ashwani Gaur, Advocate and  
Ms. Shivangi Sharma, Advocate for the appellants

**ALKA SARIN, J.**

1. The present appeal has been preferred by the plaintiff-appellants aggrieved by the judgment and decree dated 05.08.2016 passed by the Trial Court and the judgment and decree dated 05.12.2019 passed by the learned First Appellate Court.

2. Brief facts relevant to the present *lis* are that the plaintiff-appellants filed a suit for permanent injunction averring therein that they were cultivating agricultural land comprised in Khewat No.208/193 Khatoni No.239, Khasra No.604/1 (0-8) Biswas situated in the revenue estate of Mauza Teekli, Tehsil and District Gurgaon as *Gair Mourusi* (tenant). Prior to the plaintiff-appellants and their co-sharers, the ancestors of the plaintiff-appellants had been cultivating the land since more than last 70 years peacefully and continuously, without any objection and interruption. The plaintiff-appellants and their ancestors were cultivating the land without

paying any *Batai* or *Chakta* except for land revenue as assessed by the Government. It was further averred that the ancestors of the defendant-respondents had assured that they will not eject the ancestors of the plaintiff-appellants and their successors-in-interest and since the defendant-respondents were now interfering and threatening to dispossess the plaintiff-appellants forcibly, hence the suit.

3. On notice the defendant-respondents No.1 to 10 appeared and filed their written statement-cum-counterclaim in which they took preliminary objections *qua locus standi*, cause of action and estoppel. On merits it was contended that the plaintiff-appellants never remained in possession of the suit land in any capacity and further that the land in question was not agricultural. It was further the stand taken that the defendant-respondents No.1 to 10 had constructed four walls around the land in question and had also installed a gate thereupon. The revenue entries regarding the column of possession were patently incorrect, baseless, without foundation and thus the same were liable to be ignored and also to be corrected in favour of the defendant-respondents. It was denied that the plaintiff-appellants were inducted as tenants or there was any promise never to eject them. Defendant-respondent No.11 was proceeded against *ex parte*.

4. In replication and reply to the counterclaim, the averments made in the plaint were reiterated and those in the written statement and counterclaim were controverted.

5. On the basis of the pleadings of the parties, the following issues were framed :

1. Whether the plaintiffs are entitled for permanent injunction on ground stated in the plaint ? OPP
2. Whether the plaintiffs have no *locus standi* to file the present suit ? OPD
3. Whether the plaintiffs have no cause of action to file the present suit ? OPD
4. Whether the plaintiffs are estopped from filing the suit by their own act and conduct ? OPD
5. Whether the plaintiffs have not come to the Court with clean hands ? OPD
6. Whether the defendants are entitled to a decree for declaration and injunction as claimed in the counter claim ? OPD
7. Relief.

6. The Trial Court vide judgment and decree dated 05.08.2016 dismissed the suit and decreed the counterclaim of the defendant-respondents holding them to be owners in possession of the suit land and that the revenue entries in favour of the plaintiff-appellants were illegal, incorrect and without any basis and were liable to be corrected in favour of the true owners i.e. the defendant-respondents. The plaintiff-appellants were also restrained from interfering in the possession of the defendant-respondents. Aggrieved by the same a single appeal was preferred by the plaintiff-appellants which appeal was dismissed by the First Appellate Court vide the impugned judgment and

decree dated 05.12.2019. Hence, the present regular second appeal by the plaintiff-appellants.

7. Learned counsel for the plaintiff-appellants has contended that the plaintiff-appellants were in cultivating possession of the suit property for the last more than 70 years and that there was a promise made by the ancestors of the defendant-respondents never to eject the ancestors of the plaintiff-appellants. Learned counsel had further contended that the suit was for possession and the plaintiff-appellants had duly proved their possession on the suit property and hence the suit ought to have been decreed.

8. Heard.

9. In the present case the learned counsel for the plaintiff-appellants has only addressed arguments qua the suit filed by the plaintiff-appellants and has not addressed any arguments qua the counterclaim which was decreed in favour of the defendant-respondents. Both the Courts concurrently found that the documentary evidence on the record produced by the plaintiff-appellants i.e. Ex.P-1 to Ex.P-14 did not reflect them as tenants. The plaintiff-appellants also failed to produce any evidence on the record that they were tenants in the property in dispute. Desh Raj (one of the plaintiff-appellants), who stepped into the witness box as PW1, filed his affidavit (Ex.PW-1/A) in examination-in-chief and stated in his cross-examination that he had not visited the suit property for the last more than one year. He also admitted that they (plaintiff-appellants) were not the owners of the suit property and that the defendant-respondents were the owners. He further admitted that they (plaintiff-appellants) were not tenants on the suit property. Though the learned counsel

for the plaintiff-appellants had vehemently contended that the plaintiff-appellants were proved to be in possession of the suit property however the plaintiff-appellants failed to prove their possession over the suit property. The defendant-respondents had raised a plea that the entries in favour of the plaintiff-appellants were illegal and without any basis or foundation. The learned counsel for the plaintiff-appellants had not been able to show as to how the plaintiff-appellants came in possession of the suit property except for the oral testimony of the plaintiff-appellants. In the absence of any evidence in support of the claim that the plaintiff-appellants were in possession of the suit property, no fault can be found with the impugned judgments and decrees passed by the Trial Court and the First Appellate Court dismissing the suit of the plaintiff-appellants for permanent injunction and decreeing the counterclaim of the defendant-respondents. No other argument had been raised.

10. In view of the above, I do not find any merit in the present regular second appeal. No question of law, much less any substantial question of law, arises in the present case which requires determination by this Court. The appeal, being devoid of any merit, is accordingly dismissed. Pending applications, if any, also stand disposed off.

**01.07.2025**  
*Aman Jain*

**(ALKA SARIN)**  
**JUDGE**

*NOTE : Whether speaking/non-speaking: Speaking*  
*Whether reportable: Yes/No*