



2025:PHHC:167995



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

**RSA No.2645 of 1998 (O&M)**

**Municipal Corporation Faridabad**

**. . . . Appellant**

**vs.**

**Rajbir alias Dan Singh and others**

**. . . . Respondents**

**Reserved on: November 27, 2025**

**Pronounced on: December 03, 2025**

**Pronounced fully/operative part : Fully**

**\* \* \* \***

**CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA**

**Argued By:-** Mr. Baldev Raj Mahajan, Sr. Advocate with  
Ms. Nikita Goel, Advocate for the appellant.

Mr. Adarsh Jain, Sr. Advocate with  
Mr. Harpreet Singh, Advocate for the respondents.

**DEEPAK GUPTA, J.**

Defendant of the case is before this Court in the present second appeal against the concurrent findings of the Courts below, inasmuch as, suit filed by plaintiffs Rajbir @ Dan Singh and others (*respondents herein*) seeking declaration of ownership regarding the land in dispute was decreed by the trial Court on 24.01.1997 and the appeal filed by the defendant - appellant was dismissed by the First Appellate Court on 30.03.1998.

2. In order to avoid confusion, parties shall be referred as per their status before the trial Court. Trial court record was called and same has been perused.

3. Subject matter of dispute is 7 kanal 3 marla of land, situated within the revenue estate of village Sihi, Tehsil Ballabgarh, District Faridabad, detailed and described in para No.1 of the plaint.

4.1 ***Plaintiff's Case:*** According to the plaintiffs, although they are shown in the revenue record as tenants and the defendants are shown as owner of the suit land, the true factual position is otherwise. They assert that their forefathers were inducted as tenants by the Gram Panchayat of village Sihi. After the Gram Panchayat was abolished, the entire revenue estate of Sihi was merged into the defendant - Faridabad Complex Administration in 1972 and the defendant became the recorded owner of the land.

4.2 The plaintiffs further plead that the suit land was originally *banjar*, when their forefathers were settled upon it, and that the Gram Panchayat had assured that they would not be evicted so long as they made the land cultivable. The rent fixed at the time was nominal and, despite a substantial rise in prices over the years, has never been enhanced.

4.3 On these foundations, the plaintiffs claim that their long, continuous, and uninterrupted possession for more than thirty years has ripened into occupancy rights under the provisions of the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1953. They contend that upon acquiring such occupancy rights, they became full owners of the suit land. However, as the defendant continues to be reflected as owner in the revenue record, and as its officials are allegedly threatening to dispossess them, the plaintiffs filed the present suit seeking a declaration of their ownership and protection of their possession.

5.1 ***Defendant's Stand:*** In written statement, the defendant—Faridabad Complex Administration (the predecessor-in-interest of the present appellant, Municipal Corporation, Faridabad) contested the claim on multiple preliminary grounds, including lack of locus standi, estoppel, maintainability of the suit, jurisdiction of the Court, and absence of the statutory notice.

5.2 On merits, the defendant asserted that it is the lawful owner of the suit land and alleged that the plaintiffs, in collusion with revenue officials, had managed to get themselves wrongly recorded as *gair maurusi* tenants on

payment of *chakota seal tamam* at the rate of ₹6 per bigha. According to the defendant, the land was never allotted, granted, or leased to the plaintiffs by it or by its predecessor-in-interest, the Gram Sabha. Therefore, the entries in favour of the plaintiffs were claimed to be illegal and liable to be rectified in favour of the defendant.

5.3 Alternatively, the defendant contended that the plaintiffs were in unauthorized occupation of the suit land and were not tenants under the defendant or its predecessor. It specifically denied that the Gram Sabha had ever inducted the plaintiffs' forefathers as tenants, or that any rent, nominal or otherwise, had been agreed upon or frozen. Denying all other allegations in the plaint, the defendant sought dismissal of the suit.

6. In the re-joinder, plaintiffs reiterated their case.

7. Necessary issues were framed. Evidence produced by the parties was taken on record.

8.1 ***Findings of the Courts below:*** Learned Trial Court after examining the revenue records spanning from 1963–64 to 1988–89 noted that initially Jagmal Singh, father of the plaintiffs, was shown in possession as a tenant. From the year 1978–79 onwards, the plaintiffs themselves came to be recorded as tenants of the suit land, paying *chakota* at the rate of ₹6 per bigha annually. The record further reflected that the Gram Panchayat was originally entered as owner of the land, but from 1973-74 onwards, the defendant–Faridabad Complex Administration (predecessor of the present appellant) was shown as the owner.

8.2 The Court also took note of earlier ejectment proceedings initiated by the defendant against the plaintiffs, in which an ejectment order had been passed, though their dispossession was stayed by this Court vide Ex.P-16. Relying on the presumption of correctness of entries under Section 44 of the Punjab Land Revenue Act, 1887, the Trial Court concluded that the plaintiffs were in possession of the suit land as tenants.

8.3 Taking into consideration that the plaintiffs had remained in possession for more than 30 years on a nominal annual rent, which had never been increased, the Court held that they had acquired the status of occupancy tenants under the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1953. Consequently, it held that they had become owners-in-possession of the suit land. The suit was therefore decreed on 24.01.1997, declaring the plaintiffs to be owners in equal shares on account of acquisition of occupancy rights.

9. These findings were affirmed by the First Appellate Court, which dismissed the defendant – Municipal Corporation, Faridabad's appeal vide judgment dated 30.03.1998.

10.1 ***Contentions of the Appellant – Defendant:*** Assailing the concurrent findings of the Courts below, learned senior counsel for the appellant–Municipal Corporation, Faridabad argues that that the Courts below committed a fundamental error in assuming tenancy merely from revenue entries, ignoring the statutory requirement that a Gram Panchayat, being a body corporate under Section 5 of the Gram Panchayat Act, can act only through valid resolutions. It was submitted that PW2 himself admitted ignorance regarding any such resolution; PW1 (Patwari) conceded that no resolution of 1961 existed in the record and no roznamcha entry authorising the change in Girdawari was traceable. In the absence of a validly created tenancy, the entire foundation of the plaintiffs' claim collapses.

10.2 It is further contended that tenancy can arise only either through a bilateral contract or through statutory creation, and in the present case, neither exists. No rent receipts have been produced. According to the plaintiffs' own evidence, rent was paid only until the Gram Panchayat existed, and no rent was paid after the Faridabad Complex Administration came into being. If rent had actually been paid to the Gram Panchayat, the plaintiffs could have produced receipts, but none have been filed. In the absence of any Panchayat resolution or rent receipt, the finding that the plaintiffs were tenants is, according to counsel, wholly erroneous.

10.3 It is further argued that statutory conditions under Section 5(2) of the Punjab Tenancy Act were not satisfied since the plaintiffs neither pleaded nor proved that the alleged rent of ₹6 per bigha was not higher than land revenue and cesses, a mandatory pre-requisite for the presumption of occupancy rights to arise.

10.4 Attention is also drawn to the plaintiffs' pleading that their predecessors made the land cultivable despite its earlier classification as *banjar kadim*. Counsel refers to the revenue record to point out that a major portion of the land continues to be recorded as *banjar kadim* and only some part as *narmot*. A *banjar kadim* land, according to Ld. counsel, is incapable of cultivation and cannot be in exclusive individual possession.

10.5 With these submissions, learned senior counsel prays that the impugned judgments and decrees of the Courts below be set aside and the plaintiffs' suit be dismissed by allowing the appeal.

11.1 **Response of Respondents – Plaintiffs** : *Per Contra*, learned senior counsel for the respondents argues that the concurrent findings of the Courts below warrant no interference, as they are firmly rooted in the revenue record. These records consistently reflect the plaintiffs' possession over the suit land since 1961 as *gair marusiyan*, paying a fixed *chakota* of ₹6 per bigha annually. Ld. Counsel emphasizes that under Section 44 of the Punjab Land Revenue Act, such entries carry a presumption of truth, and therefore, the appellant cannot rely on the plaintiffs' failure to produce a Gram Panchayat resolution or rent receipts to undermine the correctness of these entries.

11.2 Placing reliance on ***Khem Chand (Deceased) through LRs v. Ranjit Singh (now deceased) through LRs and others, 2025(3) RCR (Civil) 678***, learned senior counsel submits that long-standing possession as non-occupancy tenants paying fixed rent, raises a presumption of mutual understanding between the parties that the tenant would not be evicted. On this

basis, the Courts below rightly held that the plaintiffs had acquired occupancy rights and had consequently become owners of the suit land.

11.3 Reliance is also placed on ***Muni Ram and others v. Phullia and Lalu, 1974 P.L.J. 369***, to contend that the intention of the landlord regarding non-ejectment must be assessed at the inception of the tenancy. Any change in intention at a later stage does not alter the nature of the tenancy created at the outset.

11.4 With these submissions, learned senior counsel for the plaintiffs-respondents prays for dismissal of the appeal.

12. This Court has considered submissions of both the sides and has appraised the record carefully.

13. ***Analysis by this Court*** : Having considered the rival submissions and examined the record, this Court finds that the plaintiffs have failed to establish the very existence of a valid tenancy.

14. The earliest jamabandi for 1954-55 (Ex.D2) shows Gram Panchayat to be owner in self-cultivation of the suit land, and it is only in the Girdawari of Kharif 1961 that plaintiff's father Jagmal Singh is, for the first time, recorded as *gair maurusi*. No explanation or authority for this sudden change exists. Both PW2 (Rajbir plaintiff) and PW1 (Revenue Patwari) admitted the absence of any Gram Panchayat resolution of 1961 authorising induction of Jagmal Singh as tenant. It is well-settled, as held in ***Sadhu v. Gram Panchayat of Village Akalian, 1990 (1) RRR 555*** and reiterated in ***Gram Panchayat, Chaudhary Majra vs. Mandeep Singh, 2001(3) RCR (Civil) 782*** that Panchayat, being a corporate body, speaks only through resolutions. A tenancy cannot come into existence without a valid act of the Panchayat, and unilateral manipulation of revenue entries cannot create legal rights, where none exists. The testimony of DW1, the Patwari of the defendant, further confirms that no tenancy was ever created, rent was never paid, and entries were made without authority. On this evidence, the presumption under Section 44 of the Land Revenue Act stands sufficiently rebutted.

15. Even assuming for argument's sake that the plaintiffs' father was inducted as tenant, their claim for occupancy rights is equally untenable. Section 5 (2) of the Punjab Tenancy Act does not allow occupancy rights to arise merely from continuous occupation of 30 years. The tenant must also prove that no rent exceeding land revenue plus cesses was ever paid. The plaintiffs neither pleaded nor proved this essential requirement. As held in ***Jaleb Khan and others v. Commissioner, Gurgaon Division, Gurgaon and others, 2009(4) RCR(Civil) 385*** and as reiterated in ***Tara Chand v. Bihari Lal and others, 2018(1) RCR (Civil) 443***, lack of such proof is fatal. The Courts below overlooked this mandatory statutory condition.

16. Further, the plaintiffs' assertion that they made the land cultivable is contradicted by revenue entries showing that out of 7 kanal 3 marla, 4 kanal is *banjar kadim*. Such land is incapable of cultivation, thereby undermining the plaintiffs' narrative of improvement. The chakota said to be ₹6 per bigha is itself implausible, where the land is measured in kanal and marla. These inconsistencies further weaken the plaintiffs' claim.

17. **Conclusion:** In view of the above circumstances, it must be held that the entries showing the plaintiffs as *gair maurusi* tenants are the result of manipulation and lack legal foundation and the plaintiffs never acquired occupancy rights. Their possession, though long-standing, is not in the capacity of tenants but of unauthorized occupants or trespassers. Nevertheless, since their possession is recorded since 1961, they cannot be dispossessed except through due process of law.

18. It appears from the record that earlier eviction proceedings under the Haryana Public Premises and Land (Eviction & Rent Recovery) Act were remanded by this Court in CWP No.6571 of 1995 for fresh decision, but the proceedings were not concluded owing to pendency of the present suit. Now that this appeal is being decided, the defendant is at liberty to pursue the matter afresh.

19.           **Result:** For the reasons recorded above, the judgments and decrees passed by the Courts below cannot be sustained. The suit filed by the plaintiffs for declaration of ownership is dismissed. It is, however, clarified that the plaintiffs shall not be dispossessed except in accordance with law, and the appellant-Administration shall be free to initiate appropriate proceedings for their eviction as per law. The appeal is disposed of in these terms.

December 03 , 2025

Sarita

(DEEPAK GUPTA)

JUDGE

Whether speaking/reasoned?	Yes
Whether reportable?	Yes

Uploaded on: December 03, 2025