



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

**RSA-5208-2018 (O&M)**  
**Reserved on : 28.01.2026**  
**Pronounced on : 25.02.2026**  
**Judgment uploaded on : 25.02.2026**

*Whether only the operative part of the judgment is pronounced or whether the full judgment is pronounced: **Full***

BALBIR SINGH AND OTHERS .....Appellants

Versus

RAMESHWAR AND OTHERS .....Respondents

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

Present : Mr. Amarjit Singh Virk, Advocate for the appellants.  
(joined through hybrid mode)

**ALKA SARIN, J. (Oral)**

1. The present regular second appeal has been preferred by the plaintiff-appellants challenging the judgments and decrees passed by the learned Trial Court dated 29.10.2014 and by the learned First Appellate Court dated 28.03.2018.

2. Briefly stated the facts relevant to the present *lis* are that the plaintiff-appellants filed a suit for declaration to the effect that they had become owners in possession of the land as fully described in the plaint under the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1953 (hereinafter referred to as 'the Punjab Occupancy Act') having acquired occupancy rights under Sections 5 and 8 of the Punjab Tenancy Act, 1887. The case as set up by the plaintiff-appellants was that the predecessor-in-



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interest of defendant-respondents No.19 to 21, namely, Mam Chand, was the owner of the suit land. Mam Chand mortgaged the land with Dhani and Moji successors-in-interest of defendant-respondents No.1 to 18. It was further the case that since 1931-32 the forefathers of the mortgagees defendant-respondents No.1 to 18 persuaded the forefathers of the plaintiff-appellants to start cultivating the land at a nominal rate of *lagan @* ₹16 per annum which was equivalent to the land revenue, and they also promised not to eject them. On this agreement and promise, the forefathers of the plaintiff-appellants started cultivating the suit land. It was further the case that the plaintiff-appellants No.1 to 4 have inherited the tenancy rights on the death of their father, namely, Prabhu while the plaintiff-appellants No.5 to 10 succeeded to the tenancy rights upon the death of their father, namely, Sh. Kanshi Ram. It was the case that the forefathers of the plaintiff-appellants, on completion of their continuous cultivation for 30 years over the suit land, had become occupancy tenants and since the mortgagor had never got the land redeemed within a period of 30 years, therefore, the mortgagees had become owners of the suit land after the expiry of 30 years and that the plaintiff-appellants had become the occupancy tenants under defendant-respondents No.19 to 21 by operation of law.

3. Written statement was filed by defendant-respondents No.19 and 20 raising various preliminary objections. On merits it was the stand taken that the suit land was never given to the plaintiff-appellants as alleged, and it was denied that the mortgagees had become owners of the suit land. It was further the stand taken that the suit filed by the mortgagee for foreclosure had already been dismissed. Defendant-respondents No.1, 4 to 7, 11 to 15 and 17



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also filed their joint written statement taking the stand that their forefathers have been in possession of the suit land for the last more than 150 years and that the period of redemption had expired and that they had become owners in possession of the suit land. It was the stand taken that their forefathers never promised the forefathers of the plaintiff-appellants not to dispossess them. Further stand was that the plaintiff-appellants had no right over the suit land.

4. Replication was not filed. On the basis of the pleadings of the parties the following issues were framed :

1. Whether the plaintiff is entitled for a decree of declaration with a consequential relief of permanent injunction as prayed for in the head note of the plaint ?

OPP

2. Whether the suit of the plaintiff is not maintainable in the present form ? OPD

3. Whether the plaintiff has no cause of action or *locus standi* to file the present suit ? OPD

4. Whether the plaintiff is estopped from filing the present suit by his own act and conduct ? OPD

5. Whether the plaintiff has concealed the true and material facts from the Court ? OPD

5A. Whether the suit is bad for mis-joinder and non-joinder of necessary party ? OPD

6. Relief.

5. The Trial Court dismissed the suit vide judgment and decree dated 29.10.2014. Aggrieved by the same an appeal was preferred by the



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plaintiff-appellants which appeal was also dismissed by the learned First Appellate Court vide judgment and decree dated 28.03.2018. Hence, the present regular second appeal by the plaintiff-appellants.

6. Learned counsel for the plaintiff-appellants contended that both the Courts have erred in dismissing the suit. It is urged that the plaintiff-appellants have been in possession of the suit land through the mortgagees and since the mortgage had not been redeemed, they had acquired the status of occupancy tenants under Sections 5 and 8 of the Punjab Tenancy Act, 1887. It was further the contention of the learned counsel that the possession of the plaintiff-appellants since 1932-33 had been duly proved from copies of *jamabandies, khasra girdwari* and *fard badar* (Ex.P1 to Ex.P18).

7. Heard.

8. In the present case the argument of the learned counsel for the plaintiff-appellants that the plaintiff-appellants were claiming that the mortgagees had put them in possession as tenants and since the mortgage had not been redeemed, therefore, the mortgagees had become owners and now the plaintiff-appellants have become occupancy tenants having acquired their rights under Sections 5 and 8 of the Punjab Occupancy Act is wholly misconceived. The plaintiff-appellants are claiming through the mortgagees. A Civil suit was filed by the mortgagees i.e. defendant-respondents No.1 to 18 for declaring them as owners on the basis of foreclosure which suit was dismissed vide judgment and decree Ex.D1. Section 4(5) of the Punjab Tenancy Act, 1887 defines the tenant. The said provision reads as under :

*'4. Definition - In this Act, unless there is something repugnant in the subject or context-*

XXXX XXXX XXXX

(5) “tenant” means a person who holds land under another person, and is, or but for a special contract would be, liable to pay rent for that land to that other person; but it does not include-

(a) an inferior landowner; or

(b) a mortgagee of the rights of a landowner, or

(c) a person to whom a holding has been transferred, or an estate or holding has been let in farm, under the Punjab Land Revenue Act, 1887 (XVII of 1887), for the recovery of an arrear of land-revenue or of a sum recoverable as such an arrears ; or

(d) a person who takes from the Government a lease of unoccupied land for the purpose of subletting it.’

A perusal of the above reproduced Section clearly reveals that a tenant does not include a mortgagee of the rights of a landowner. The plaintiff-appellants herein are claiming their title through mortgagees. The suit filed by the mortgagees for foreclosure of the mortgage has already been dismissed. Further still, when the mortgagees themselves are excluded from the definition of the Punjab Tenancy Act, 1887, someone deriving a title from them cannot claim a better title.

9. In view of the above, I do not find any merit in the present appeal. No question of law, much less any substantial question of law, arises for



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determination in the present case. The appeal being devoid of any merits is accordingly dismissed. Pending applications, if any, also stand disposed off.

**25.02.2026**

*Aman Jain*

**(ALKA SARIN)**

**JUDGE**

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