

(1983) 03 P&H CK 0049
In the Punjab And Haryana At Chandigarh
Case No : R.O.R. No. 164 of 1977-78

Ajmer Singh

APPELLANT

Vs

Amar Singh

RESPONDENT

Date of Decision : 03-03-1983

Acts Referred:

Citation : (1984) PLJ 232 : (1986) RRR 493

Hon'ble Judges : K.S.Narang, F.C.

Advocate : Mr. Suresh Amba, Advocate, Mr. V.P. Sharma, Advocate., Advocates for appearing Parties

Judgement

K.S. Narang, F.C.

1. This is a reference dated 9.1.1978 made by the Additional Commissioner, Jullundur Division, recommending the revision of orders dated 7.10.1976 and 29.11.1976 of the Assistant Collector I Grade, Garhshankar and the Collector, Hoshiarpur, respectively under section 24 of the Punjab Security of Land Tenures Act, 1953 read with section 84 of the Punjab Tenancy Act, 1887 in an ejectment case.

2. Brief facts of the case are that Lehna Singh, landowner, now deceased (father of the petitioner) moved an application in form 'L' under section 9 of the Act, 1953 for ejectment of the respondent from the land measuring 4K11M comprised in Khasra No. 978/58 in the revenue estate of Harwan, Tehsil Garhshankar, District Hoshiarpur, on the ground of nonpayment of rent for the crops Kharif 1973 to Rabi 1976. The respondent denied his relationship as tenant with the applicant and pleaded his status to be that of the sepidar, rendering his services to the latter by way of supplying and repairing agricultural tools and implements and not liable to pay any rent. In support of his pleadings, the respondent adduced documentary evidence consisting of Jamabandi for the years 1931-32, 1939-40 and 1953-54. Besides, he appeared as his own witness and stated that he had been in possession of the land in dispute for the last 35 years and prior to him, his father was in its cultivating possession, as sepidar. His other witness

Amar Singh son of Gokal Singh also corroborated his statement. In support of his case, the applicant landowner produced oral as well as documentary evidence. His oral evidence consisted of statements of three witnesses to the effect that the respondent was the tenant on the land in dispute on payment of batai. He also adduced, besides other documents, copies of Jamabandi for the years 1959, 1962, 1963 and 1967-68. In the Jamabandi for the years 1958-59 and 1963-64, the applicant is shown to be in the possession of the land as Hissadar while for the year 1967-68 he (the respondent) is shown to be a tenant. The documentary evidence adduced by the respondent showed him and his brother Banta Singh to be sepidars. In the column of an Ex.D.2, their father, Kirpa Singh is entered as sepidar. The Assistant Collector I Grade held the entries in the Jamabandi for the years 1967-68 to be suspicious as an attempt to create a tenancy as he found that in this entry no lagan was mentioned. The landowner-applicant also did not adduce any evidence showing the cessation of sepidari and the circumstances in which earlier relationship was altered or modified. He, therefore, concluded that the matter needed detailed examination in a regular suit, which was not permissible in the summary proceedings before him and accordingly, by his order dated 7.10.1976, dismissed the application of the landowner. Feeling aggrieved, the landowner went in appeal before the Collector urging that the Assistant Collector had omitted the consideration, the entries in Jamabandi for the year 1972-73 showing the respondent to be a tenant on payment of batai. The Collector agreed with his subordinate officer on the finding that the landowner had not proved the event of cessation of sepidari, after which only, a new tenancy could be created and dismissed the appeal by his order dated 29.11.1976. Still not contented, the petitioner moved the Commissioner, Jullundur Division, with a revision petition which has been recommended by him for the setting aside of the impugned orders and entrusting the case to some other competent office for a fresh decision, with the following observation :

"... .. Sepidari is created in lieu of personal services rendered by a sepidar to a landowner. Sepidari lapses as soon as the personal services cease. Thereafter, it is always open to the parties to create a new type of relationship. There is nothing on the record to show that the conditions governing sepidari still obtain between the parties. I agree with the counsel for the petitioner that in case the entries in the Jamabandi for the years 1967-68 and 1972-73 were wrong, it was open to the respondent to file a suit to have them corrected. So long as the entries stand in the Jamabandi, they have to be presumed to be true. I feel that both the Assistant Collector Ist Grade and the Collector, Hoshiarpur, have taken a mistaken view of law which has resulted in grave injustice to the petitioners."

3. During the pendency of the case before the Commissioner, the landowner, Lehna Singh died and his son Ajmer Singh succeeded as his legal heir, as a petitioner in this case.

4. This case came up for arguments on 15.5.1981 before my learned

predecessor, Shri N Khosla, I.A.S., the then Financial Commissioner who called for a report from the S.D.O. (Civil), Garhshankar, as to who had been for the last thirty years upto 1976, cultivating the land and to whom he had been paying the rent. The Assistant Collector Ist Grade cum S.D.O. (Civil), Garhshankar, vide his No. 151/Reader, dated 28.11.1981, after recording the statements of reliable persons including the Lambardar, the Sarpanch and an ex Sarpanch of the village and making verification on the spot, has reported that the land in dispute had been cultivated by Amar Singh (respondent) for the last 3035 years, as sepidar in lieu of the services rendered by him to the landowner.

5. I have carefully perused both the impugned orders as well as reference made by the Additional Commissioner and also the report of the S.D.O. (Civil) and have examined the evidence available on the record. The learned counsel for the petitioner has argued that in the Jamabandi for the years 195859 and 196263, the landowner was shown to be Hissadar and that the respondent had been shown in Jamabandi for the year 1972 to be a tenant. He has not been, however, able to convince me as to how the sepidari came to be ceased and instead a tenancy was created as claimed. He has argued with vehemence that the presumption of truth remains attached to the entries in the record of rights unless proved otherwise in a Court of competent jurisdiction. I do not see any force in this argument since no revenue official has entered the witness box to corroborate these entries and there is, in fact, sufficient evidence to show that the entries have been subsequently changed without any basis.

6. For the reasons given in the last foregoing para, I reject the reference, dismiss the revision petition and uphold the order dated 7.10.1976 and 29.11.1976 of the Assistant Collector Ist Grade, Garhshankar, and the Collector, Hoshiarpur, respectively.

Announced.

Reference rejected.