

**(1964) 01 P&H CK 0005**

**In the Punjab And Haryana At Chandigarh**

**Case No :** Second Appeal from Order No. 35 of 1963

Asa Nand

APPELLANT

Vs

Madho Singh and Another

RESPONDENT

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**Date of Decision :** 03-01-1964

**Acts Referred:**

Pepsu Tenancy and Agricultural Lands Act, 1955 — Section 7

**Citation :** (1964) 2 ILR (P&H) 107 : (1964) 66 PLR 522

**Hon'ble Judges :** Shamsheer Bahadur, J

**Bench :** Single Bench

**Advocate :** D.N. Aggarwal, for the Appellant; Puran Chand, for the Respondent

**Final Decision :** Dismissed

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## Judgement

Shamsheer Bahadur, J.—The short question which arises for determination is whether the holding of a landlord acquired by allotment from the Custodian of Evacuee Property is excepted from the provisions of the Pepsu Tenancy and Agricultural Lands Act, 1955?

2. The plaintiff-appellant Asa Nand brought a suit for possession of land measuring 9 kunals and marlas in khasra No. 988/2 in village Bhagu of which he obtained possession on 13th June 1960. This land had been allotted to him earlier in the year 1957. After the plaintiff had been put in possession of this land the defendant Madho Singh and another got into possession and claimed it as a tenant. Apparently the possession of the defendant Madho Singh was forcible and the parties resorted to criminal proceedings as well. It has, however, been found by the Courts below and this finding is not challenged that Madho Singh was a lessee under the Custodian. The suit of the plaintiff was dismissed by the trial Court on the ground that Madho Singh being a tenant to the land in dispute could not be ejected except under the provisions of section 7 of the Pepsu Tenancy and Agricultural Lands Act 1955. The Court of the Senior Subordinate Judge Bhatinda, affirmed this decision of the trial Court and directed the plaint to be returned for presentation to the proper Court, it having held that the Civil Court

had no jurisdiction under the provisions of the Pepsu Tenancy and Agricultural Lands Act, 1955 to entertain the suit.

3. In appeal it has been urged by Mr. Aggarwal on behalf of Asa Nand that the provisions of the Pepsu Tenancy and Agricultural Lands Act, 1955 are not applicable to the holding of the plaintiff and reliance has been placed for this proposition on section 51 of the Act which says -

51. (1) The provision of the this Act shall not apply to -

(a) lands owned by or vested in the State Government otherwise than under the provisions of this Act.

(b) lands vested in the Central Government which have not been transferred to an allottee either on permanent or quasi-permanent basis.

(c) \* \* \* \*

(d) \* \* \* \*

(e) \* \* \* \*

Mr. Aggarwal submits that the land before transference to the plaintiff had vested either in the State or the Central Government and consequently the provisions of the Act are not applicable. I am afraid I do not agree with the contention of the learned counsel. The applicability of the Act is excluded only in respect of lands which are either owned by or vest in the State or the Central Government. After the land had been transferred to an allottee it ceased to be owned by or vest in the State or Central Government. In fact clause (b) of sub-section (1) of section 51, on which reliance has been placed, mentions specifically that the exception is made only in respect of land vested in the Central Government and not transferred to an allottee either on permanent or quasi-permanent basis. The suit land has admittedly been allotted to the plaintiff and this indeed is the foundation of his claim. Such land according to the statute itself does not vest in the Central Government.

4. Mr. Aggarwal has also invited my attention to rule 58 of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955, which says that "where any person is allotted agricultural land under these rules he shall, subject to the provision of any local or special law fixing the ceiling of, or otherwise regulating agricultural holdings, be granted vacant possession of such land". It is submitted on basis of this rule that unless dispossession of the appellant is ordered the plaintiff cannot be granted vacant possession as enjoined in rule 58. It has to be borne in mind that this rule is subject to two exceptions, namely, the provision of any local or special law fixing the ceiling and any law regulating agricultural holdings. The Pepsu Tenancy and Agricultural Lands Act, 1955, is manifestly an enactment regulating the agricultural holdings and. substantial concessions are granted to the subsisting tenants. Section 7 of this Act says that a tenancy cannot be terminated except in accordance with the provisions of the Act or on

grounds specially mentioned. None of the grounds mentioned in section 7 of the Act has been relied upon in support of the suit for possession. Whether the tenancy of Madho Singh respondent is one which is binding on the plaintiff is a matter which is to be determined by appropriate authorities under the Pepsu Tenancy and Agricultural Lands Act, 1955. Section 47 of this Act bars the jurisdiction of civil Courts to entertain disputes which have to be settled by the authorities mentioned in the Act.

5. In my view the judgements of the Courts below are correct and there is no scope for interference in this appeal which accordingly fails and is dismissed. As there is no direct authority on the point, I leave the parties to bear their own costs.