

(1971) 07 P&H CK 0024

In the Punjab And Haryana At Chandigarh

Case No : Supreme Court Application No. 212 of 1971

Asa Singh

APPELLANT

Vs

The State of Haryana and Others

RESPONDENT

Date of Decision : 30-07-1971

Acts Referred:

Constitution of India, 1950 — Article 133

Citation : AIR 1972 P&H 284

Hon'ble Judges : R.S. Narula, J;H.R. Sodhi, J

Bench : Division Bench

Judgement

1. The orders of the revenue authorities resting with the final decision of the Financial Commissioner, Revenue Haryana, directing and upholding the ejectment of the petitioner from the land in dispute was impugned before us in C. W. 934 of 1971. After hearing counsel for the petitioner we dismissed the writ petition in limine on March 17, 1971. The present application has been filed by the writ petitioner for a certificate under Art. 133(1) of the Constitution. The application has been pressed solely on the basis of valuation. Though a mention has been made in paragraph 7 of the application about the case being fit for appeal to the Supreme Court, the application has rightly not been pressed on that ground. The only ground on which Mr. Bindra has pressed the application is that of valuation. In paragraphs 4 and 5 of the application, the valuation has been worked out to be more than Rupees 20,000/- on the basis of the market value of the land in dispute. No valuation of the tenancy rights of the petitioner has been disclosed in the application or in its accompanying affidavit. Mr. Bindra has urged that in a judgment, decree or final order relating to ejectment of a tenant, the claim or question indirectly involved relates to the property from which ejectment is sought and, therefore the petitioner is entitled to a certificate under sub-clause (b) of clause (1) of the Art. 133 as our decision indirectly relates to the property itself in respect of which the claim or question involved was of ejectment. He concedes that there is no material before us on the basis of which it could be held that the valuation of the tenancy rights itself is not less than Rs.20,000/-. In

Chhitarmal Vs. Shah Pannalal Chandulal, , it has been authoritatively held that it is clause (a) and not clause (b) which applies to a case of this type. A Division Bench of the Calcutta High Court has held in Ramric Lal Saha Vs. Sachindra Narayan Roy and Others, , that in a suit for eviction of a tenant by his landlord, the subject-matter in dispute is the tenancy and the value is different from that of the property involved. It was pointed out in that case that the market value of the property may be more than Rs.20,000/- but the market value of the tenancy interest cannot be the same and in the absence of any material to show that the tenancy interest itself is worth more than Rs.20,000/- a certificate under clause (1)(a) of Article 133 of the Constitution cannot be granted. We are in respectful agreement with the dictum of the Calcutta High Court. This application, therefore, fails and is dismissed though without any order as to costs.

2. Petition dismissed.