

(1984) 01 P&H CK 0017

In the Punjab And Haryana At Chandigarh

Case No : L.P.A. No. 222 of 1981 in Civil Writ Petition No. 825 of 1971

Atma Ram and Others

APPELLANT

Vs

Hazari Lal and Another

RESPONDENT

Date of Decision : 02-01-1984

Acts Referred:

Punjab Security of Land Tenures Act, 1953 — Section 14A

Citation : (1984) 01 P&H CK 0017

Hon'ble Judges : Prem Chand Jain, J; I.S. Tiwana, J

Bench : Division Bench

Advocate : N.L. Dhingra, for the Appellant; M.L. Sarin, for the Respondent

Final Decision : Allowed

Judgement

I.S. Tiwana, J.—This letters patent appeal is against the order of a learned Single Judge of this Court, dated March 6, 1980, whereby the success of the Appellants' predecessor-in-interest, Smt. Pari, in securing the ejectment of the Respondent-tenant Hazari Lal, in the Courts of the Collector, the Commissioner and the Financial Commissioner (orders Annexures "B", "C and "D" respectively), in terms of Section 14-A read with Section 9, Sub-section (1), Clause (ii) of the Punjab Security of Land Tenures Act, 1953 (hereinafter called the Act), has been nullified.

2. Initially the application of the landlord in Form "L" was dismissed by the Assistant Collector on the ground that she had failed to prove the non-payment of rent for the harvests Kharif 1961 to Rabi 1963. During the course of appeal before the Collector, counsel for Hazari Lal Respondent made an offer that his client was agreeable or had no objection to be ejected from the land in question if Smt. Pari stated on oath that she had not received the rent for the harvests in question. In response to this offer of Respondent's counsel, Smt. Pari made the statement on oath before the Collector wherein she denied having received any rent for the above noted period. As a sequel to this statement, the Collector ordered Respondent's ejectment which was later, as already indicated, affirmed

by the Commissioner and the Financial Commissioner What has weighed with the learned Single Judge for upsetting these orders is that these authorities had failed to record a conclusive finding to the effect that the non payment of rent which was taken to have been established in the light of Section 11 of the Oaths Act, 1872, was not shown to be without any sufficient cause. This approach of the learned Judge is clearly indicated by the following observations occurring in the impugned judgment:-

So, the statement made by Shrimati Pari was a conclusive proof against the Petitioner that he had not paid the rent It could not go beyond that But that is not sufficient to order ejectment. It has further to be held that the default in payment was without sufficient cause. The Collector did not apply his mind to this aspect of the case.

Having heard the Learned Counsel for the parties at some length, we however find it difficult to sustain the above noted approach and conclusion of the learned Judge.

3. It is beyond dispute that the tenancy under the Act can be determined in terms of the conditions prescribed by Section 0 and in the manner provided by Section 14-A. As per these seniors, if a tenant is in default in payment of rent, the land-owner desiring to recover rent due by the tenant may apply in writing to the Assists at Collector who shall thereupon send a notice to the] tenant to deposit the rent due or give proof of having paid it. If the tenant fails to pay the rent or give proof of payment, the Assistant Collector shall, after a summary inquiry, if he is of the view that the tenant has not paid or deposited the rent, eject the tenant summarily and put the landlord in possession of the land concerned. The onus to establish the sufficiency of the cause for non-payment of rent is apparently on the tenant. The tenant, in order to escape ejectment, must be regular in the payment of rent. (See Mrs. Raj Kama v. The Financial Commissioner, and Ors. 1980 P.L.J. 346. What to talk of establishing any sufficiency for the nonpayment of rent for the crops in question, the Respondent-tenant has not even raised any such plea at any stage before any of the revenue officers. On our repeated asking, his Learned Counsel is not in a position to make reference to any part of the record in this regard. His whole argument is that before ordering the eviction of Hazari Lal, the revenue authorities should have recorded a categorical finding that non-payment of rent which stands established in the light of the statement of Smt. Pari, was without any sufficient cause on the part of the tenant. To our mind, no such finding could possibly be recorded by these authorities in the absence of any such plea by the tenant.

4. The only other contention which had been raised before the revenue officers as well as before the learned Single Judge was that the offer made by the Respondent's counsel to Sort Pari during the course of appeal before the Collector was not authorised and thus the tenant was not bound by the same. This plea of the tenant has consistently been negatived by all the authorities by a conclusive finding in the light of the terms and conditions of the power of

attorney admittedly executed by the Respondent-tenant in favour of his counsel- This aspect of the matter, however, has not been agitated before us by the Learned Counsel for the Respondent.

5. For the reasons recorded above, we allow this appeal and while setting aside the impugned judgment, restore the orders Annexures "B", "C" and "D", but with no order as to costs.

Appeal allowed.