
(2002) 04 P&H CK 0069

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 2507 of 1984 (O and M)

Chander (Died) and Another

APPELLANT

Vs

The State of Haryana and Others

RESPONDENT

Date of Decision : 26-04-2002

Acts Referred:

Pepsu Tenancy and Agricultural Lands Act, 1955 — Section 7

Citation : (2002) 3 RCR(Civil) 234

Hon'ble Judges : Amar Dutt, J

Bench : Single Bench

Advocate : V.K. Sandhir and R.S. Chauhan, for the Appellant; S.K. Vashisth, Assistant A.G., Haryana, for the Respondent

Final Decision : Allowed

Judgement

Amar Dutt, J.—This petition under Articles 226/227 of the Constitution of India seeks to challenge the order dated 8.8.1988 Annexure P1 passed by the Assistant Collector First Grade, Narnaul directing the ejectment of the petitioner and order dated 17.4.1984 passed by the Collector, Narnaul dismissing the petitioner's appeal.

2. In brief, the facts leading to the passing of the above said orders are that the petitioner was a tenant under Phool Chand respondent No.2 in 5 Bighas and 6 Biswas of land situated in Narnaul. Respondent No.2 had filed a suit for recovery of rent of Rs.5085.58 P for the period Kharif 1977 to rabi 1979. This suit was decreed and the arrears of rent were required to be deposited within six months. The decree which was passed, also required the petitioner to pay costs of Rs. 1500.50 P. Admittedly the petitioner deposited the rent as indicated but did not pay the costs which led respondent No.2 the filing of an execution application on the ground that the decree had not been complied with and (herefore, the petitioner was liable to be ejected. This application was accepted by the Assistant Collector last Grade, Narnaul on 8.8.1983 and the Collector. Narnaul following the view taken by the Financial Commissioner Revenue in R.C.R. 30 - Bhagwan v.

Charan Dass etc. and R.O.R. 16 of 1982-83 Chander v. Phool Chand rejected the appeal. This necessitated the petitioner to challenge the order by way of this petition.

3. The solitary contention, on which the interference is being sought with the impugned orders, is that according to Section 7 of the Pepsu Tenancy and Agricultural Lands Act. 1955 (in Short "the 1955 Act"), a tenancy can be terminated if the tenant fails to pay rent. Admittedly, the tenant has deposited the arrears of rent and, therefore, the rigours of the above Section would not be attracted to the present case merely on account of his failure to deposit the costs that were awarded in the suit for recovery of the rent.

4. I have given my thoughtful consideration to the provisions of Section 7 of the 1955 Act. which reads as under:-

Termination of tenancy.- (1) No tenancy shall be terminated except in accordance with the provisions of this Act or except on any of the following grounds, namely:-

(a) xx xxx xx

(b) that the tenant has failed to pay rent within a period of six months after it falls due;

Provided that no tenant shall be ejected under this clause unless he has been afforded an opportunity to pay the arrears of rent within a further period of six months from the date of the decree or order directing his ejectment and he had failed to pay such arrears during that period;

(c) that the tenant, not being a widow, a minor, an unmarried woman, a member of the Armed Forces of the Union or a person incapable of cultivating land by reason of physical or mental infirmity has after commencement of the President's Act sublet without the consent in writing of the landowner, the land comprising his tenancy or any part thereof;

(d) that the tenant has, without sufficient cause, failed to cultivate personally such land in the manner and to the extent customary in the locality in which such land is situated;

(e) that the tenant has used such land or any part thereof in a manner which is likely to render the land unfit for the purpose for which it was leased to him;

(f) that the tenant, on demand in writing by the landowner, has refused to execute a kabuliyat agreeing to pay rent in respect of his tenancy in accordance with the provisions of Section 9 and 10.

5. when this provision is read alongwith Sub-Sections 3 and 4 of Section 4 of the Punjab Tenancy Act. 1947. which defines the rent and arrears of rent as under:-

(3) "rent" means whatever is payable to a landlord in money, kind or service by a tenant on account of the use or occupation of land held by him;

(4) ""arrears of rent" means rent which remains unpaid after the date on which it becomes payable. the only inference, which can be drawn is that the ejectment for non-payment of arrears of rent as contemplated u/s 7 of the 1955 Act would not cover the case where in addition to a direction for payment of arrears of rent within six months, the Court had also awarded costs of the suit for recovery of the rent. In this view of mine. I am supported by the observation of V.K. Jhanji, J of this Court in C.W.P. No.17852 of 1997 Sardar Singh v. State of Punjab, decided on 14.9.1999.

6. For the reasons recorded above, this petition is allowed and the impugned orders dated 8.8.1983 and 17.4.1984 are set aside.No costs.