

(2011) 10 P&H CK 0032

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No.3401 of 1986 (O and M)

Molar and others

APPELLANT

Vs

The State of Haryana and others

RESPONDENT

Date of Decision : 31-10-2011

Acts Referred:

Haryana Ceiling on Land Holdings Act, 1972 — Section 8
Punjab Security of Land Tenures Act, 1953 — Section 14A, 18
Punjab Tenancy Act, 1887 — Section 69, 70, 71

Citation : (2012) 3 RCR(Civil) 271 : (2012) 1 RCR(Civil) 184

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

K. Kannan, J.—The petitioners challenge the order passed by the competent authorities under the Punjab Security of Land Tenures Act of 1953. An action had been initiated u/s 14-A for ejectment of the present petitioners from the property in dispute as the tenant had failed to pay batai for crops Rabi 1978 to Kharif 1979 without sufficient cause. The landowner's application has been dismissed by the Assistant Collector, Grade-I, Thanesar, and aggrieved by the decision, he had preferred an appeal to the Collector, Kurukshetra. In appeal, the Collector found that as per the revenue records, the relationship of landowner and tenants had been established and the tenants themselves accepted the fact that they deposited the batai on 13.01.1984 during the proceeding of the Assistant Collector, Grade-I, Thanesar. The Collector found that there had been no proof of such deposit. The Collector had held that there was nothing on record to suggest that the properties were held in surplus by the landowner and, therefore, the said property did not become vested with the State. It was, therefore, exempted from the provisions of Section 8 of the Haryana Ceiling on Land Holdings Act and since the payment of batai had not been established and there being no application u/s 18 of the Punjab Security of Land Tenures Act, the orders of ejectment passed were justified. The order of the Assistant Collector had been

challenged before the Collector, Kurukshetra and he had dismissed the same on 17.09.1985. In a further revision filed before the Financial Commissioner, the matter has come to be decided by a summary rejection since the petitioners were not prepared to argue on merits when the stay application has not been favourably considered.

2. In the writ petition, several averments have been brought forth which do not find expressed anywhere in the impugned orders. It is contended that Megh Raj Malhotra was the original landowner having properties to an extent of 85 standard acres and 5 units situate in Village Bhallar, Tehsil Thanesar, District Kurukshetra. He was a displaced person and he was entitled to permissible area of 50 standard acres as on 20.12.1956 and he sold 1/3rd of his holdings to his son Baldev Raj, another 1/3rd to his another son Janak Raj and retained 1/3rd with him. On 04.06.1957, Megh Raj Malhotra along with his sons sold some portion of their holdings to respondents 2 to 5. The department proceeded to declare 13 standard acres and 5 units of land as surplus in the hands of the vendees. The vendees including respondents 2 to 5 challenged the order of declaration of surplus area before the High Court in CWP No.2529 of 1965. The writ petition was dismissed by this Court on 10.05.1967. The petitioners, who were old tenants and having been inducted prior to the coming into force of the Punjab Act of 1953 and when the proceedings were pending, they were entitled to be protected in the possession of the property held by them as falling within the surplus area and consequently, they should have been protected by the State. This is rather a strange contention to make, for, when the surplus proceedings had already concluded with the disposal of the writ petition in the year 1964 and what was being retained by the landowner was within his permissible area, the landowner was entitled to invoke Section 14-A for ejectment for non-payment of batai. So long as it is an established fact that there were no proceedings pending u/s 18 for sale of the property, the petitioners' status as tenants cannot alter. The petitioners themselves admit the fact they had filed an application under the provisions of Haryana Ceiling on Land Holdings Act on 25.06.1979 for allotment of this land under the provisions of the Act but the same was dismissed. The further proceedings by appeal and revision also appear to have been dismissed. The tenants appear to have attempted to make out a case of justification for non-payment of rent by the fact that they were contending before the authorities that the property should be sold to them and the Assistant Collector, Grade-I, had accepted the pendency of litigation as sufficient reason for non-deposit of batai. Although the Collector dismissed the appeal on an assumption that the petitioners were contending that they had paid the batai but not established, there is nothing on record to show that even during any other time that batai was paid and the tenants made out a justification for non-payment. If the ultimate order of the authorities were to be challenged, it cannot be done without bringing on record some attempt of the tenants to pay the rent during all this time when the case has been pending, I do not see anywhere any attempt of the tenants to pay the rent. I do not even find

any averment in the petition offering to pay the rent to the landowner.

3. The petitioners have taken up a plea that no order of eviction could have been passed without compensating the tenant u/s 70 or 71 of the Punjab Tenancy Act. The question of payment of compensation arises only if there is a statement of claim by a tenant seeking for compensation for improvement on the land or for disturbance and the ground providing for compensation. Disturbance contemplated u/s 70 is to be read in the context of Section 69 which provides for a tenant to claim compensation for the efforts taken by the tenant to clear waste land for bringing into cultivation. No such application is seen to have been made for such determination. The writ petition is wholly without merit and correctly dismissed by the authorities below. The same is affirmed and the writ petition is dismissed.