
(2016) 03 P&H CK 0345
In the Punjab And Haryana At Chandigarh
Case No : LPA No. 470 of 2009 (O&M)

Ram Mehar and others

APPELLANT

Vs

State of Haryana and others

RESPONDENT

Date of Decision : 30-03-2016

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 148
Punjab Tenancy and Agricultural Lands Act, 1955 — Section 7

Citation : (2016) 2 LawHerald 1753

Hon'ble Judges : Mr. Mahesh Grover and Mr. Lisa Gill, JJ.

Bench : Division Bench

Advocate : Mr. Surender Lamba, Advocate, for the Appellant; Mr. Sudeep Mahajan, Addl. AG, Haryana, for the Respondent

Final Decision : Dismissed

Judgement

Mahesh Grover, J.—This appeal is directed against the judgment of the learned Single Judge dated 19.12.2008. A short issue involved in this case is whether the time envisaged under Section 7(1)(b) of the Pepsu Tenancy and Agricultural Lands Act, 1955 (hereinafter referred to as an "Act") can be extended by the Assistant Commissioner.

2. Section 7(1)(b) of the Act is extracted herein below:-

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

(a) xxx xxx xxx

(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 ejection and he had

failed to pay the arrears during that period;

3. It envisages grant of an opportunity to the tenant to pay the arrears of rent within a period of six months from the date of decree or order directing his ejectment and upon failure to do so warranting ejectment of the tenant.

4. Learned Single Judge noticed the decision of the Full Bench of this Court in *Gurmej Singh and others v. Financial Commissioner and others* 1981 PLJ 168 and *Charan Dass v. Financial Commissioner, Haryana* and another 1997 (2) PLJ 639 to conclude that a statutory period of six months envisaged in the Act cannot be extended as the Assistant Collector would not have powers to do so. It is to be noticed that the appellant had filed an application under Section 148 of Code of Civil Procedure seeking extension of time to deposit rent pursuant to the order of Assistant Collector First Grade, who had passed the decree on 31.05.1982 granting the appellant six months time to deposit the rent. This aspect of maintainability of application under Section 148 CPC was also negated in the impugned judgment.

5. Learned counsel for the appellant has contended that the order of eviction of the Assistant Collector First Grade passed on 31.05.1982, was an ex-parte order. He applied for a copy of the same on 07.10.1982 which was delivered on 30.12.1982. Before receipt of the copy he had, however, applied for extension of time by mentioning the exact amount, which according to us is indicative of knowledge. The Assistant Collector dismissed the application, which order was upheld by the Collector. When the matter went up before the Commissioner, he framed a reference to be answered by the Financial Commissioner to accept the same, leading to the filing of the writ petition by the present-respondent, where the prayer of the writ petitioner was accepted.

6. After hearing learned counsel for the parties and upon perusal of the relevant material on record, we are of the opinion that there is no legal infirmity in the impugned judgment passed by the learned Single Judge. Once the statute prescribes a period for compliance of a particular act, the time cannot be extended unless there is a specific provision in the statute conferring such power on an authority. The observations of the Full Bench and another related judgment relied upon by the learned Single Judge are more than clear in this regard. The plea of the appellant that he was not aware of the order passed by the Assistant Collector does not inspire any confidence particularly noticing that he was a participant in the proceedings but defaulted subsequently. It is, thus, his own default, which led to ex-parte proceedings culminating in an adverse order.

7. He cannot, thus, plead ignorance of such proceedings or the order. It was, thus, incumbent upon him to report compliance of provisions of the decree passed in accordance with Section 7(1)(b) of the Act, instead he waited for a sufficiently long time. Evidently he being a tenant stood to gain by the delay. Besides, no attempt was made by the appellant to challenge that order and if he had accepted the same then evidently he was bound by its terms. Since the

statute did not provide for any extension of time, we are of the opinion that there is no infirmity shown to have been committed by the learned Single Judge and, thus, we would refrain from interference with the impugned order.

8. Dismissed.