
(1986) 08 P&H CK 0029
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 1423 of 1979

Rattan Singh and others

APPELLANT

Vs

Financial Commissioner, Haryana

RESPONDENT

Date of Decision : 05-08-1986

Acts Referred:

Citation : (1986) PLJ 531 : (1986) RRR 221

Hon'ble Judges : G.C.Mital, J

Advocate : Mr. H.N. Mehtani, Advocate for Mr. H.S. Hooda, Advocate., Advocates for appearing Parties

Judgement

G.C. Mital, J.

1. Khem Chand filed a suit before the Revenue Court for declaration that he had acquired occupancy rights in respect of 7 Bighas 18 Biswas of agricultural land, which was in his possession and his ancestors since before 1877. Initially, the Assistant Collector and the Collector dismissed the suit and on recommendation of the Commissioner, the Financial Commissioner, remanded the case to the Collector for fresh decision. Even after remand of the case the Collector and the Commissioner did not give any relief of Khem Chand, who wanted declaration that he had acquired occupancy rights. Finally, the matter came up before the Financial Commissioner and he by order dated 18th October, 1978 (Annexure P7), dealt with the matter in detail after noticing the relevant material, which had come on record, for deciding the point in issue. He came to the conclusion that the tenant had acquired occupancy rights. As a consequence, the revision was allowed and the necessary declaration was given in favour of Khem Chand. Against the aforesaid order, the landowners have come to this Court under Articles 226/227 of the Constitution of India.

2. Shri H.N. Mehtani, Advocate, appearing for the landowners has argued that the Financial Commissioner in revisional jurisdiction could not go into the questions of fact and the decisions of the authorities below on questions of fact were binding on him. On the face of it the argument appears to be attractive but

if the order of the Financial Commissioner is carefully read, the answer to it is found in the order itself. The authorities below as rightly found by the Financial Commissioner, did not apply their mind to the real point in controversy and only proceeded to discuss as to who had planted the trees on the land in dispute whether the plaintiff (Khem Chand) or the landowners. This controversy was totally besides the point and at best could be one of the circumstances, which may have been taken notice of, while determining the real controversy, namely whether Khem Chand has acquired occupancy rights or not. Since the authorities below had not done their duty in spite of earlier remand, this time the Financial Commissioner himself went through the record to find out the true position. This was just and proper course to be followed. The Financial Commissioner took notice of the fact that the two tenants were in possession of the land in dispute in record of rights relating to 1877, 188990 and 189394. After 189394, one of the tenants left the tenancy and the other tenant was shown to be in occupation in Jambandi for 190203 and thereafter his three sons were shown tenants in the record of rights, of the years 190708, 191213 and 191617. Till 194647, Sukhdev one of the sons was shown as a tenant, and, thereafter Khem Chand son of Sukhdev was shown as a tenant upto date. Hence, it was concluded that Khem Chand and his predecessors in interest have been in long possession at least from 1893 94. This was one of the factors taken into consideration for grant of occupancy rights.

3. The second consideration was that this long possession was indicative of the intention of the landowners not to evict the tenants. This is also a relevant consideration.

4. The third was that Chakota payable was only 6 per cent of the produce. This was considered to be nominal rent because the landowners could claim rent to the extent of 1/3rd of the produce.

5. The fourth was that the trees were not that old and seem to have been planted by the present tenants and his forefather.

6. As a cumulative effect of all the aforesaid circumstances, which were borne out from the record, declaration of acquisition of occupancy rights was granted. Under section 8 of the Punjab Tenancy Act, 1887, the Revenue Courts have the jurisdiction to grant occupancy rights on any grounds other than the grounds specified under sections 5 to 7 of the Act. In the circumstances, it cannot be said that the Financial Commissioner exceeded his jurisdiction or committed any illegality in passing the impugned order.

7. For the reasons recorded above, this writ petition is dismissed and since there is none to oppose, there will be no order as to costs.