(1970) 03 P&H CK 0005

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ No. 8 of 1966

Sarup Singh APPELLANT

Vs

The Collector Hissar and others RESPONDENT

Date of Decision : 18-03-1970

Acts Referred:
Punjab Land Revenue Act, 1887 — Section 3(8)

Citation : (1970) 03 P&H CK 0005

Hon'ble Judges : Balraj Tuli, J

Bench : Single Bench

Advocate : H.S. Gujral, for the Appellant; S. Sarup, for the Respondent

Final Decision : Allowed

Judgement

B.R. Tuli, J.—The Petitioner was appointed as temporary Lambardar of village Ahrwan from Kharif, 1962, in consequence of the suspension of the permanent Lambardar Grurmej Singh. It is stated in the written statement that the total amount which the Petitioner was asked to collect from Kharif, 1962, to Rabi, 1965, came to Rs. l,3(sic),718.92 paise, out of which the Petitioner had deposited Rs. 1,23,322,02 paise. In the petition it has been stated that the Petitioner was to collect Rs. 1,35,709,15 paise, out of which he deposited Rs. 1,23,700/-. He has also claimed a deduction of Rs. 2406,45 paise out of the amount collected by him on account of Lambardari fee.

2. On November 20, 1965, a warrant was issued against the Petitioner calling upon him to deposit the sum of Rs. 15,903,98. On November 24,1965, the Petitioner made an application to the Collector Hissar, challenging the correctness and legality of the said warrant as he maintained that the amount in arrears was still due from the land-owners. Whose list had been filed by him with the Naib Tehsildar for initiating recovery proceedings against them. He also pleaded in that application that he was in no way liable to deposit the amount alleged to be outstanding. It has now been admitted in the return that on November 20, 1965 amount due from the Petitioner was Rs. 7874, 39 because he had filed a list of

defaulters the amounts due from whom amounted to Rs. 8029.59 paise. It is thus implidly admitted that the warrant issued for the recovery of Rs. 15,903,98 has been wrongly issued. It is further admitted in the return that the Petitioner had deposited a sum of Rs. 5300/- on December 1, 1935, and, thus the amount remaining due from him was Rs. 2574,39 paise. From these facts it is clear that accounts have to be taken from the Petitioner in order to find out how much amount he had collected and whether the whole of that amount had been deposited in the Government treasury. The grievances of the Petitioner is that the Tehsildar refused to go into the accounts unless the Petitioner deposited the amount for which warrant had been issued against him. This was evidently unfair and unjust to the Petitioner. The warrant dated November 20. 1965, issued by the Naib Tehsildir, exercising powers of Assistant Collector, requiring the Petitioner to deposit the sum of Rs. 15903,93 in the Government treasuary is, therefore, liable to be quashed.

3. The learned Counsel for the Petitioner has argued that the Petitioner as Lambardar cannot be subjected to any coercive process in respect of the land revenue collected or to be collected by him as he is not a defaulter within the meaning of that term in Section 3(8) of the Punjab Land Revenue Act. Defaulter is defined as meaning "a person liable for an arrear of land revenue, and includes a person who is responsible as surety for payment of the arrear."

4. It is evident that this definition relates to the land-owner from whom the land revenue is due or a person who is responsible as surety for the payment of that land revenue. A Lambardar who has collected the land revenue but has not deposited the same in the treasury, or the Lambardar who has not collected the land revenue from the land-owners, cannot be termed as ''defaulter'' as defined in Sub-section (8) of Section 3. Sections 97,98 and 99 apply to the recovery of land revenue or sum recoverable as arrear of land revenue from the defaulters and do not apply to a Lambardar who has collected the land revenue but not deposited in the treasury, or who has not collected the land revenue. Rules 20,64, 65 and 66 of the Punjab Land Revenue Rules made under the said Act also do not lead to the conclusion that a Lambardar who has collected the land revenue but has not deposited in the treasury or who has not collected the land revenue can be proceeded against as a defaulter under the said Act or the Rules. A Lambardar while collecting the land revenue acts as an agent of the State Government and he can be proceeded with civilly or criminally if he has collected the land revenue but has not deposited the same in the Government treasury, but he cannot be proceeded with as a defaulter under the Punjab Land Revenue Act or the Rules framed thereunder. He cannot be held liable for the payment of the land revenue which he has not collected from the land owners as no statutory provision either of the Act or the Rules mentioned above has been brought to may notice holding the Lambardars liable for land revenue which has not been collected by him. The warrant in the present case was issued by the Naib Tehsildar u/s 69 of the Act which provides for the issue of a warrant for the arrest of a defaulter. Since the Petitioner was not a defaulter as defined in

Section 3(8) of the Act, no warrant could be issued against him under that section. The Naib Tehsildar was, therefore, in error in issuing the warrant against the Petitioner calling upon him to deposit the amount mentioned therein in order to avoid arrest for the recovery of the same.

5. For the reasons given above, this petition is accepted with costs and the warrant issued by the Naib Tehsildar dated November 20,1965, is hereby quashed. Counsel''s fee Rs. 100/-.

