

(1982) 08 P&H CK 0036
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 622 of 1974

Sumer Singh

APPELLANT

Vs

Financial Commissioner, Revenue, Haryana, Chandigarh and
Others

RESPONDENT

Date of Decision : 27-08-1982

Acts Referred:

Punjab Security of Land Tenures Act, 1953 — Section 10(2), 10(3), 14
Punjab Tenancy Act, 1887 — Section 77

Citation : AIR 1983 P&H 282 : (1983) 1 ILR (P&H) 483

Hon'ble Judges : I.S. Tiwana, J

Bench : Single Bench

Judgement

1. The following undisputed facts unravel the controversy raised in this petition.
2. On Oct. 31, 1966, respondents Nos. 4 to 11 filed a suit under S. 77 of the Punjab Tenancy Act, 1887, to establish their claim as occupancy tenants on petitioner's land in their occupation. But for the Collector this suit of theirs has consistently been decreed by the other revenue Courts namely. Assistant Collector, Commissioner and the Financial Commissioner. This decree is now impugned by the petitioner-landlord primarily on the ground that the day (Oct. 31. 1966) the above noted respondents filed the present suit, they were not the tenants under the petitioner and had in fact ceased to be so with effect from Oct. 27, 1966, when an order of eviction was passed against them under S. 14-A of the Punjab Security of Land Tenures Act, 1953(for short, the Act) at the instance of the petitioner. The plea raised on behalf of these respondents which, as already indicated, has been consistently accepted by the revenue Courts, is that the proviso contained in the latter part of clause (i) of S. 14-A of the Act protects the rights of these tenants notwithstanding the order of eviction passed against them on Oct. 27, 1966. The Financial Commissioner has rather dealt with the whole matter cursorily. This is all what he says after noticing the contentions of the learned counsel for the parties. :--

"The petitioner's counsel argued that a decree for ejectment was obtained against the respondents on 27th Oct. 1966 and that the proceedings for establishing occupancy rights were instituted by the respondents on 31st Oct. 1966 as a counter-blast. Against this, the plea of the respondent's counsel was that S. 14-A of the Punjab Security of Land Tenures Act saves the rights of the tenant to acquisition of occupancy rights if any. The contention is accepted."

3. It is not disputed by the learned counsel for the respondents nor can it possibly be that relationship of landlord and tenant ceases to exist between the parties the moment an order of ejectment is passed against the tenant and his actual dispossession from the land in execution of the order of ejectment is not necessary for the determination of the tenancy. This has already been so settled by this Court in *Hans Raj v. Rai Sahib Pt, Bhagat Ram* 1960 PLJ 78, *Pishori Lal v. Hukama* 1972 PLJ 4 and by the final Court in *Rikhi Ram and Another Vs. Ram Kumar and Others*, . So the short point which needs determination by this Court is as to whether the proviso as contained in the latter part of clause (i) of S. 14-A saves the rights of the respondent-tenants in spite of the order of eviction passed against them prior to the institution of the present suit.

4. Mr. Gian Singh, learned counsel for the petitioner forcefully submits that a reading of S. 14-A (i) with sub-secs. (2) and (3) of S. 10 of the Act makes it manifestly clear that the rights of the tenants to compensation and acquisition of occupancy rights under the Punjab Tenancy Act, 1887, are saved only if the proceedings or the suit for the determination of such compensation or acquisition of occupancy rights is pending on the on the day the landlord initiates proceedings for their eviction under S. 14-A of the Act. This proviso according to the learned counsel, does not save these rights of such a tenant for all times to come or in perpetuity particularly, when these rights have lawfully been determined with the passing of the order of eviction against the tenant. On the other hand, the submission of Mr. Sarwan Singh, learned counsel for the respondent-tenants is that notwithstanding the order of eviction passed against them, their rights under the Punjab Tenancy Act, 1887, remained unaffected.

5. After giving my thoughtful consideration to the entire matter, I find merit in the submission of the learned counsel for the petitioner. The implication Of S. 14-A (i) is that sub-secs. (2) and (3) of s. 10 of the Act have to be read in this clause. By doing so the substance of clause (i) would read that "a landowner desiring to eject a tenant under this ant Collector First Grade having jurisdiction who on receipt of the application shall, after giving to the parties notice in writing and a reasonable opportunity to be heard, determine the dispute summarily and shall keep a memorandum of evidence and a gist of his final order with brief reasons there for. When an application has been made any proceedings in relation to the same matter pending in any other authority shall be stayed on receipt of information by that Court or authority from such be stayed on receipt of information by that Court or authority from such Assistant Collector of the fact having received the application and all such proceedings in a Court or before any

authority shall lapse when the dispute has been determined by the Assistant Collector under this Act ; provided that the tenant's rights to compensation and acquisition of Occupancy rights, if any, under the Punjab Tenancy, Act, 1887 shall not be affected." Thus a reading of S. 14-A (i) and sub-secs. (2) and (3) of S. 10 of the Act makes it amply clear that proviso as contained in clause (i) Of S. 14-A virtually forms part of sub-section (3) of S. 10. Sub-section (3) is attracted only when a proceeding in relation to the same matter is pending in any Court or before any authority when an application under S. 14-A of the Act is made. Thus it is patent that unless the present suit was pending on the day (Oct. 27, 1966) the proceedings for the eviction of the respondent-tenants were finalised, there is no question of their rights being saved under the Punjab Tenancy Act. The only effect of the proviso, to my mind, is that notwithstanding the determination of the relationship of landlord and tenant between the parties the suit of a tenant for establishing his occupancy rights under the Punjab Tenancy Act does not come to an end with the passing of the eviction order under S. 14-A of the Act as all other proceedings pending in a Court or before any other authority would automatically lapse in view of the provisions of sub-section (3) of S. 10 of the Act. In other words, but for the suit filed by a tenant under the Punjab Tenancy Act, 1887 for compensation and acquisition of occupancy rights, all other proceedings between the parties pending in any Court or before any authority relating to the matter in controversy between a landlord and a tenant under S. 14-A of the Act shall come to an end with the passing of the order of eviction under that section. Otherwise also it is difficult to imagine how a person who has ceased to be a tenant or whose tenancy has lawfully been terminated with the passing of an order of eviction against him, can be said to continue to be a tenant under the landlord for the purposes of the suit for compensation and acquisition of occupancy rights under the Punjab Tenancy Act. It is beyond dispute that unless the plaintiff can be styled as a tenant under the landlord, he cannot maintain such a suit. No judgment has been brought to my respondents in support of his contention that notwithstanding the order of eviction passed against the respondent-tenants on Oct, 27, 1966, they continued to be tenants under the petitioner on Oct. 31. 1966.

6. In the light of the above, I find that the impugned judgment and decree are wholly unsustainable and are thus set aside. The necessary consequence of this is that the suit of the respondent-tenants stands dismissed. However, I pass no order as to costs.

7. Petition allowed.