IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No. 805 of 2015 (O&M)

DATE OF DECISION : 26.05.2015

Bhim Singh and others

.... APPELLANTS

Versus

Financial Commissioner, Haryana and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present : Mr. Kulvir Narwal, Advocate,
for the appellants.

* * *

SATISH KUMAR MITTAL, J. (Oral)

This intra-court appeal under Clause X of the Letters Patent has been filed against the order dated 05.02.2015 passed by the learned Single Judge, whereby the writ petition (CWP No. 14887 of 2011) filed by the appellants challenging the orders dated 24.03.2003 (Annexure P-3); 03.09.2003 (Annexure P-4) and 24.02.2011 (Annexure P-6) passed by the Assistant Collector Ist Grade, Gohana; Collector, Sonepat; and the Financial Commissioner, Haryana, permitting the private respondents to proceed with execution of the ejectment order passed against the appellants, has been dismissed.

Though there is 64 days' delay in filing the instant appeal and the appellants have filed an application (CM No. 1684-LPA of 2015) for condoning the said delay, yet we have heard learned counsel for the appellants on merits and have gone through the order passed by the learned Single Judge.

Undisputedly, the private respondents were small land owners. They filed eviction application against the appellants under Section 9 of the Punjab Security of Land Tenures Act, 1953 (hereinafter referred to as `the Act'). After issuing notice to the appellants and providing them opportunity of hearing, the said application was allowed by the Assistant Collector Ist Grade, Gohana, vide order dated 27.10.1986, whereby the appellants were ordered to be evicted from 85 kanals 12 marlas of land. However, they were allowed to retain 5 kanals of land, till they are rehabilitated on the surplus land. After their rehabilitation, they were also ordered to be evicted from those 5 kanals of land. The said order was upheld in appeal by the Collector, Sonepat, vide order dated 17.11.1987 (Annexure P-1). However, as far as the question of compensation for improvement made in the land by the appellants was concerned, they were granted liberty to move an application before the Assistant Collector Ist Grade, Gohana. Instead of filing revision against the said order under the Act, the appellants challenged the orders of the revenue courts before the civil court. Ultimately, the civil court rejected the case of the appellants.

Thereafter, on 27.07.2001, the private respondents moved an application for delivery of possession of the land, in terms of the ejectment order passed by the Assistant Collector Ist Grade, which was upheld by the Collector. The appellants contested the said application on the ground of limitation. They pleaded that under Article 137 of the Limitation Act, the said application should have been filed within three years, whereas the case of the private respondents was that the said execution application could have been filed within 12 years, as provided under Article 136 of the Limitation Act. The Assistant Collector Ist Grade and the Collector, vide orders dated 24.03.2003 (Annexure P-3) and 03.09.2003 (Annexure P-4) rejected the objections of the appellants while holding that the private respondents could move an application for enforcement of the eviction order passed under the Act within 12 years, as provided under Article 136 of the Limitation Act. Though the Commissioner vide order dated 08.11.2007 (Annexure P-5) took a different view and made recommendation to the Financial Commissioner, Haryana, for setting aside the aforesaid orders passed by the Assistant Collector Ist Grade as well as the Collector, on the ground that such application could have been filed within 3 years, as provided under Article 137 of the Limitation Act. The Financial Commissioner, vide order dated 24.02.2011 (Annexure P-6) rejected the said reference while holding that Article 136 of the Limitation Act is applicable, as the expression "Civil Court" in the Article 136 of the Limitation Act includes the Revenue Courts for the purpose of execution of their orders. The learned Single Judge, vide the impugned order dated 05.02.2015, has upheld the order of the Financial Commissioner, while making the following observations :

> *"Admittedly, an eviction petition was preferred by small landowners. Keeping in view all facts and circumstances, authority ordered their eviction. This finding was upheld by appellate and revisional authorities. It is evident that relationship of landlord and tenant came to an end after eviction order was passed in the year 1987. It appears that even after passing of the eviction order, tenants were able to delay the matter by approaching civil court wherein an order staying their dispossession was passed. Same was vacated on 25.09.1992. Landlords tried to execute the eviction order. Tenants raised the plea of limitation. The matter ultimately came up before the Financial Commissioner who held that proceedings under the Act are special proceedings, though revenue courts are not 'civil courts' but principles of CPC are followed. Admittedly, no limitation is prescribed in Punjab Security of Land Tenures Act or Punjab Tenancy Act. Even otherwise Article 136 prescribes limitation of 12 years for executing a decree. As stay was vacated by civil court only on 25.09.1992, plea for execution of the eviction order cannot be said to be beyond limitation. Besides, small landowners cannot be allowed to be deprived of their land by frustrating the eviction order passed in their favour way-back in the year 1987. The judgment in Balbir Singh's case (supra) cannot help the case of the petitioners as facts of the said case were totally different. I, thus, find no merit in this writ petition."*

Learned counsel for the appellants could not cite any contrary judgment, wherein it has been held that the limitation to file execution application for enforcement of the order of eviction passed by the revenue courts under the provisions of the Act, is 3 years, as provided under Article 137 of the Limitation Act.

We are of the opinion that in the facts and circumstances of the case, the learned Financial Commissioner has rightly come to the conclusion that the expression "Civil Court" in Article 136 of the Limitation Act clearly covers the order of eviction passed by the revenue court. We fully agree with the said observation made by the Financial Commissioner. The order of eviction passed by the revenue court under the provisions of the Act cannot be defeated on the ground that such an order can be executed within 3 years, as provided under Article 137 of the Limitation Act. In our opinion, there is no justification for invoking Article 137 of the Limitation Act in the present case. The ejectment order passed by the revenue court is also a decree, may be by the revenue court, and that can also be executed within 12 years of passing of the decree/order of eviction. Under the provisions of the Act, no limitation has been provided. Therefore, by taking the law of limitation provided under the Limitation Act, Article 136 has to be applied, which has been applied by the learned Financial Commissioner, and has been rightly upheld by the learned Single Judge.

In view of the above, we do not find any ground to interfere with the order passed by the learned Single Judge.

No merit. Dismissed.

(SATISH KUMAR MITTAL)
JUDGE

May 26, 2015 **(HARINDER SINGH SIDHU)**
ndj **JUDGE**