

In the High Court of Punjab and Haryana at Chandigarh.

**1. CWP-15154 of 2015
Decided on 31.7.2017**

Balwant Singh and another

--Petitioners

Vs.

Financial Commissioner (Appeals) Punjab and others

--Respondents

**2. CWP-15155 of 2015
Decided on 31.7.2017**

Ananta Singh and others

--Petitioners

Vs.

Financial Commissioner (Appeals) Punjab and others

--Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr. Vivek Salathia, Advocate for the petitioners

Mr.Sourav Khurana, DAG, Punjab

Mr.G.S.Nagra, Advocate, for respondent Nos. 5 to 7.

Rakesh Kumar Jain,J: (Oral)

These two petitions, bearing CWP-15154 of 2015 titled as

Balwant Singh and another Vs. Financial Commissioner (Appeals) Punjab

and others and CWP No.15155 of 2015 titled as Ananta Singh and others Vs. Financial Commissioner (Appeals) Punjab and others are being disposed of by this common order because the issue involved in both the cases is the same but for the sake of convenience, the facts are extracted from CWP-15154 of 2015 titled as Balwant Singh and another Vs. Financial Commissioner (Appeals) Punjab and others.

The private respondents No. 5 to 7 filed an application in Form “L” under Rule 22 of the Punjab Security of Land Tenures Rules, 1956 (for short, 'the Rules') and Section 14 (1) (A) of the Punjab Security of Land Tenures Act, 1953 (for short, 'the Act') before the Assistant Collector Ist Grade, Ajnala, seeking ejectment of the petitioners in respect of the land measuring 4 kanals falling in Khasra No.24 on the ground of non-payment of arrears of rent in terms of Section 9 (i) (ii) of the Act.

The case set up by the petitioners before the A.C. Ist Grade, was that the land in dispute was a forest area and they have been in possession whereas the private respondents produced on record jamabandi for the year 1997-98 in which in column No.9 it is recorded “*Batai Nesfi* '(Pedawar)' which means that the petitioners were paying ½ of yield 'Pedawar' to the private respondents on account of permissible possession over the land in question.

In view thereof, A.C. Ist Grade, Ajnala, passed the order of eviction on 21.1.2005 on the ground that since there is no evidence brought on record by the petitioners of having paid the rent to the private respondents, therefore, they were liable to be evicted.

The order dated 21.1.2005 passed by the A.C Ist Grade, was further challenged by the petitioners before the Collector, Amritsar, by way

of appeal which was dismissed vide order dated 30.6.2006, the revision filed by the petitioners before the Additional Commissioner (Appeals) Jalandhar Division, Jalandhar, was dismissed on 12.11.2008 and the revision filed by the petitioners before the Financial Commissioner also met the same fate on 01.12.2009.

Not only that the petitioners approached this Court after a period of 4 ½ years in order to challenge the aforesaid orders passed by the revenue authorities but also could not bring on record any evidence to the effect that they were not the tenants of the private respondents.

During the course of hearing, the petitioners placed on record the decision of the Civil Court (Annexure P-6) which was between one Kewal Singh son of Lachhman Singh and the petitioners. It is submitted by learned counsel for the petitioners that in that case, Kewal Singh could not prove his possession over the land in question and, therefore, the suit was dismissed on 17.9.1987, whereas the private respondents are claiming themselves to be the owners of the property on the basis of having purchased it from Kewal Singh. The petitioners have no relationship of landlord and tenants with the private respondents, therefore, the revenue authorities had no jurisdiction to decide the same. In this regard, learned counsel for the petitioners has relied upon a decision of this Court in the case of **Jia Lal and another Vs. The State of Haryana and others**, 1971 P.L.J. 81 in which it has been held that if relationship of landlord and tenant is denied, it is a disputed question of title which shall be decided by the Civil Court not the revenue authorities.

On the other hand, learned counsel for the private respondents has submitted that there is no question of any dispute because the

respondents have relied upon documentary evidence to prove the relationship between the parties by way of producing the jamabandi to which presumption of truth is attached under Section 44 of the Punjab Land Revenue Act, 1887 (for short, 'the Act'). It is submitted that the petitioners did not dispute the correctness of the jamabandi entry before the revenue authorities as the jamabandi was neither got corrected nor a Civil Suit was filed under Section 45 of the Act.

It is also submitted that insofar as the Civil Suit is concerned, filed by Kewal Singh against the petitioners, it was only a suit for permanent injunction in which Kewal Singh was not found in possession but the evidence brought on record is that Kewal Singh had become owner of the property by virtue of mutation No.441 which was also incorporated in the jamabandi. The only fact which Kewal Singh failed to prove was his possession on account of the entry in the khasra girdawari.

After hearing learned counsel for the parties and examining the record, I am of the considered opinion that there is no merit in this petition. The private respondents had filed an application in Form "L" for seeking eviction of the petitioners on the ground that they have not paid the rent without sufficient cause. The question was raised by the petitioners about the status of the private respondents of being the landlords which has been proved by leading evidence by placing on record jamabandi for the year 1997-98 in which in column No.9, it is categorically mentioned that the petitioners are in possession of the land and are paying '*batai Nifsi Pedawar*' which means that they have been sharing the crop with the landlords, namely, the respondents to the extent of $\frac{1}{2}$ share.

In order to ascertain the status of the person in possession,

column No.9 of the jamabandi is always looked into because it will explain as to whether the person in possession is a tenant or otherwise.

In this case, the petitioners have been paying rent by way of '*Batai*' to the extent of $\frac{1}{2}$ share. Therefore, it has been rightly held by the Addl. Commissioner that the petitioners had been tenants of the respondents and there was relationship of landlords and tenants between the parties for which there was no necessity to get a declaration from the Civil Court. It is submitted by learned counsel for the respondents that the possession has already been taken. Be that as it may, the facts remains that the petitioners have been held to be the tenants under the respondents and have been rightly evicted from the land in question on the ground of non payment of rent.

Insofar as the Civil Suit is concerned, which has been primarily relied upon by the petitioners was between Kewal Singh and the petitioners and was simply a suit for permanent injunction and not declaration in which Kewal Singh did not seek his title to be declared over the land in question in which he was not found in possession, therefore, injunction was rightly declined but the Civil Court specifically recorded that there is an entry of change of ownership in favour of Kewal Singh by way of mutation No.441.

In view of the above, there is hardly any ground to interfere in these petitions and the same are hereby dismissed.

31.7.2017
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(Rakesh Kumar Jain)
Judge

Whether Speaking/Reasoned:

Yes/No.

Whether Reportable:

Yes/No.