

CWP No.19990 of 2015

[1]

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.19990 of 2015
Date of decision:02.08.2017**

Gurdial Singh and others ...Petitioners

Versus

Financial Commissioner (Appeals-1), Punjab and others ...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. V.K.Jindal, Senior Advocate, with
Mr. Amardeep Sheoran, for the petitioners.

Mr. Suveer Sheokand, Addl. A.G., Punjab.

Mr. A.P.S. Rehan, Advocate,
for respondents no.5 and 6.

Rakesh Kumar Jain, J.

This petition is filed by the tenants in order to challenge the order of eviction passed against them on account of non-payment of rent.

In short, respondents no.5 and 6/landlords filed an application on Form-L in terms of Rule 22 of the Punjab Security of Land Tenures Rules, 1956 (hereinafter referred to as the "Rules") read with Section 14-A(i) of the Punjab Security of Land Tenures Act, 1953 (hereinafter referred to as the "Act") for ejectment of the petitioners in terms of Section 9(1)(ii) of the Act from the land measuring 53 Kanal 01 Marlas, situated in village Tibbar, Tehsil and District Gurdaspur, on account of non-payment of rent from April 2008 to March 2009.

The case of the petitioners is that respondents no.5 and

6/landlords were deliberately not receiving the rent in order to make out a ground for the purpose of seeking their eviction but they had filed an application on 19.08.2009 for depositing the rent in the Court from the period April 2008 to March 2009. The Assistant Collector 1st Grade observed that respondents no.5 and 6/landlords had filed the application on Form-L on 18.06.2009 and, thus, it was found that there was no sufficient reason assigned by the petitioners for not depositing the rent in time, otherwise the application to deposit the rent should have been filed in the Court before 15.06.2009. Aggrieved against the order passed by the Assistant Collector 1st Grade dated 04.01.2012, the petitioners filed appeal before the Collector, Gurdaspur. It was argued in the appeal that the application to deposit the rent for the year 2008-09 was got delayed due to parliament elections. The Collector had found that the petitioners had given the application to deposit the rent of the year 2007-08 on 01.08.2008, which was decided by the Sub Divisional Magistrate, Gurdaspur on 09.07.2009. Thereafter, the petitioners filed the application before the Assistant Collector 1st Grade on 19.08.2009 for depositing the rent of the year 2008-09, whereas the said application should have been filed before 15.06.2009. The Collector has found that the petitioners are the defaulters in depositing the rent and, thus, upheld the order of the Assistant Collector 1st Grade by dismissing the appeal vide his order dated 12.06.2012. The petitioners then challenged that order of the Collector and also the Assistant Collector 1st Grade by way of revision before the Divisional Commissioner. The said revision petition was accepted by the Divisional Commissioner on the ground that though the Supreme Court has held that one single default is enough for ejectment of the tenant but still in view of the another judgment of

the Supreme Court that the fact that tenant has committed one default in 50 years, therefore, they should not be evicted and relied upon a judgment of the Supreme Court rendered in the case of **Neki vs. Satnarain**, 1997(1) PLJ Page 102. Now it was the turn of respondents no.5 and 6/landlords to go in revision before the Financial Commissioner. The Financial Commissioner agreed with them and set aside the order of the Divisional Commissioner, holding that there is no sufficient reason assigned by the petitioners in not paying the rent from April 2008 to March 2009 and also for not filing the application in time in the Court for the purpose of depositing the rent in case the landlord was not accepting the same.

Counsel for the petitioners has submitted that the petitioners had “sufficient cause” for being late in depositing the rent in Court because respondents no.5 and 6 was not accepting the rent as they wanted to seek eviction by making non-payment of the rent a ground therefor.

On the other hand, counsel for the respondents has submitted that the petitioners were not serious either in paying the rent to respondents no.5 and 6/landlords as it was never offered to them and had also approached the Court of the Assistant Collector 1st Grade for the purpose of depositing the rent in the Court when the petition for eviction had already been filed on 18.06.2009. It is, thus, submitted that filing of the application on 19.08.2009 was only an after-thought just to escape from the possible order of eviction, otherwise had the petitioners been serious and really wanted to pay the rent, they should have approached the Court before 15.06.2009 for that purpose.

I have heard learned counsel for the parties and examined the available record with their able assistance.

Section 9(1)(ii) of the Act provides the ground for seeking eviction of a tenant if he fails to pay the rent regularly without sufficient cause. The procedure for maintaining the application is prescribed under Section 14-A of the Act, in which it is provided that if the ejectment is sought on the ground of non-payment of rent, then the provisions of Section 14-A(i) have to be invoked but in case the landlord is only desirous to recover the arrears of rent from a tenant, then the provisions of Section 14-A(ii) of the Act have to be resorted to. There is an inbuilt mechanism provided in Section 14-A of the Act for the tenant to escape from eviction in case the landlord is not taking the rent and issuing receipts in terms of Section 14 of the Act. The said mechanism is provided under Section 14-A(iii) of the Act, which provides that in case a landlord refuses to accept the rent from his tenant or refuses to give a receipt, the tenant may, in writing, inform the Assistant Collector Second Grade, having jurisdiction, of the fact. It further provides that on receiving such application, the Assistant Collector shall, by a written notice, require the landlord to accept the rent payable in accordance with the Act or to give a receipt, as the case may be, or both, within 60 days of the receipt of the notice.

In this case, the petitioners have allegedly filed the application in terms of Section 14-A(iii)(a) of the Act to the competent Court for depositing the rent on the ground that the landlord is not receiving the rent but the said application was filed on 19.08.2009 but before that the application for eviction was already filed by the landlord on 18.06.2009.

The question, thus, would arise as to whether the application for depositing the rent can be entertained after the eviction application is filed by the landlord on the ground of non-payment of rent?

The Division Bench of this Court in the case of **Surinder Singh vs. Financial Commissioner, Punjab**, 2000(4) R.C.R. (Civil) 629 has held that even if there is a single defeat in payment of rent/batai without any sufficient cause, it will fall within the mischief of Section 9(1)(ii) of the Act and would make the tenant liable to ejectment. The tenant, if he wanted to escape from a possible application for ejectment at the hands of the landlord who is not accepting the rent on tender, should have immediately filed an application in terms of Section 14-A(iii)(a) of the Act, which would fall within the term of “sufficient cause” but if the said application is filed by the tenant much after the eviction petition is filed by the landlord, then it would not come within the definition of “sufficient cause” to help the tenant as it would then be treated as an after-thought in order to escape from the possible order of eviction.

Thus, in view of the aforesaid discussion, there is hardly any reason for this Court to interfere in this petition in order to set aside the well considered orders of the Assistant Collector 1st Grade, Collector and the Financial Commissioner.

Dismissed.

August 02, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No