

207

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

CWP-9450-2011

Date of decision : 24.01.2017

Surain Singh

... Petitioner

Versus

Financial Commissioner, Appeals-I, Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Prem Nath Aggarwal, Advocate
for the petitioner.

Mr. Yatinder Sharma, Addl. A.G., Punjab.

Ms. Anupam Sharma, Advocate
for respondent Nos.5 to 14.

AMIT RAWAL, J. (ORAL)

The petitioner is aggrieved of the impugned orders dated 24.05.2000 (Annexure P-26), 05.05.2003 (Annexure P-27), 29.03.2004 (Annexure P-28) & 03.03.2011 (Annexure P-30) passed by the authorities below, whereby the application of the respondent(s)-landowners filed under Section 9 by taking the aid of Section 14-A of the Punjab Security of Land Tenures Act, 1953 (for short 'the 1953 Act') has been allowed, in essence, the petitioner has been ordered to be ejected.

Mr. Prem Nath Aggarwal, learned counsel appearing on behalf of the petitioner-tenant submits that originally Shrinivas was the owner of the land and the total land measuring 35 kanals 12 marals was in occupation of Ram Singh being tenant since 1952, who unfortunately died in 1973.

Surain Singh is the son of Ram Singh, who died in 1977 and the property devolved upon his wife widow Puran Devi and his son Harbinder Kumar. In 1992, the aforementioned person i.e. LR of Surain Singh was sold the property/land to Bagha Singh, Kashmir Singh and Natha Singh sons of Nadar Singh. Since the landlord wanted to eject/evict the petitioner forcibly or by adopting all possible means and were not accepting the rent, constrained the petitioner to move an application under Section 14-A (iii) of the 1953 Act. The rent for all period had been deposited, but the landlord did not accept the same and on 22.06.1997 filed an application for ejectment. In the evidence, it has been proved on record that the petitioner has brought on record the documentary evidence vide Ex.D-2 to Ex.D-8 i.e. receipts for all the *rabi* seasons i.e. *rabi* 1993, 1995, *Kharif* 1995, 1996, *rabi* 1997. In fact the ejectment was sought on account of the arrears of rent of the aforementioned period also on the premise that land measuring 3 kanals 12 marlas had become uncultivable (*Banjar*). All the authorities below did not believe the documentary evidence placed on record by holding that the same had not been proved in accordance with law, resulting into, passing of ejectment order. This Court while issuing the notice of motion stayed the dispossession. However, during the pendency of the petition, also directed the petitioner to deposit the entire amount of arrears of rent i.e. from 2009 to 2016 which has been deposited and the receipts of the same have been enclosed along with the affidavit dated 29.08.2016. The respondent(s)-landlords have not been accepting the rent and it is, on account of this fact, legislature in the wisdom carved out the provisions, as indicated above, allowing the tenant to move an application for deposit of the rent, thus, the orders, under challenge, suffer from fallacy, much less,

illegality and are not sustainable in the eyes of law. The allegations of the respondent(s) remained unsubstantiated and proved to be incorrect, yet the authorities below have ignored the aforementioned fact.

Ms. Anupam Sharma, learned counsel appearing on behalf of the respondent Nos.5 to 14 submits that the authorities below have rightly formed an opinion. This Court while exercising the powers under Article 226 of the Constitution of India cannot reappreciate and reexamine as it was within the domain of authorities to ponder upon the issue which has been done so *in extenso*. It was an intentional act of the petitioner for rendering the land measuring 3 kanals 12 marlas as uncultivable which, as per provisions under Section 9(v) of the 1953 Act, is one of the grounds for ejectment, thus, urges this Court for affirming the orders under challenge by dismissing the writ petition with exemplary cost.

I have heard the learned counsel for the parties and appraised the paper book.

This Court had also called for records to verify the fact regarding the payment of the receipts. The same was ordered to be retained, as indicated in the order dated 12.01.2014 which reads as under:-

*“Mr. Ramswaroop, Addl. A.G., Punjab, submits that relevant record has been brought to the Court. He shall retain a photocopy of relevant portion thereof and assist the Court.
To come up on 24.02.2015”*

The photocopy of the record has been handed over by Mr. Yatinder Sharma, Addl. A.G., Punjab to this Court to verify the factum of payment of the receipts. Receipts (Ex.D2 to D7) proved on record show that the rent for the period claimed had been deposited. Even the rent for

subsequent period, as per affidavit dated 29.08.2016, has been deposited and the receipts of the same are enclosed as Ex.P-31 to Ex.P-34.

In my view, the findings of the Courts below are nothing, but an act of aberration, much less, repugnancy, for, there has been gross misreading of the documentary evidence. The finding that receipts have not been proved in accordance with law is not backed by any reasons. The authorities while entertaining the application are required to pass a reasoned order and adopt the pragmatic approach in deciding the *lis*. All these factors have not been taken into consideration, thus, it is a fit case where the Court should have interfered by invoking the "*Doctrin Akin to Judicial Review*".

Resultantly, the impugned orders under challenge are not sustainable and the same are hereby set aside. The present writ petition is, accordingly, allowed.

24.01.2017 Yogesh Sharma	(AMIT RAWAL) JUDGE
	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No