

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 102

LPA No. 2128 of 2017 (O&M)
in CWP No. 935 of 2015
Date of decision : 22.05.2018

Trilok Chand and another

..... Appellants

VERSUS

Tarlok Chand and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Anil Kumar Rana, Advocate, for the appellants.

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RAJESH BINDAL, J:

Order dated 02.08.2017, passed by the learned Single Judge, allowing the writ petition, has been impugned by filing the present intra-court appeal. Alongwith the appeal, applications seeking condonation of delay of 11 days in refiling and 5 days in filing the appeal have also been filed.

In the case in hand, predecessors-in-interest of the respondents/petitioners No. 1 to 6 filed a petition for eviction of appellants/respondents No. 5 and 6. While allowing the writ petition and setting aside the order passed by the Financial Commissioner, the learned Single Judge held as under:-

“After hearing learned counsel for the parties and examining the available record, I am of the considered opinion that the order of the Financial Commissioner is patently illegal and liable to be set aside. There is a difference between the owner and the landlord. The landlord is one to whom the rent is paid and the tenant is one who pays the rent. In this case, the tenancy has been created in favour of respondent no.5 by the petitioners, who are Gair Marausi Awal and respondent no.5 was obliged to pay the rent to the petitioners. Not only that respondent no.5 did not pay the rent but also he sold the tenancy rights to respondent no.6 by sale deed, without permission of the landlord/petitioners. Moreover, the relationship of landlord and tenant has already been adjudged by the Civil Court on 11.03.1999, therefore, the order of the

Financial Commissioner is patently erroneous, holding that the dispute can be resolved only under the provisions of the Punjab Village Common Lands (Regulation) Act, 1961 and the petitioners cannot file the petition/suit to seek eviction of respondents no.5 and 6 on the ground of non-payment of rent, on which the tenant can be evicted from the land in question.”

On perusal of the aforesaid order, we do not find that any error has been committed by the learned Single Judge. Once the relationship of landlord and tenant was established and there was undisputed non-payment of rent, the landlord could seek eviction on that ground.

In view of the aforesaid factual matrix, we do not find any error in the order passed by the learned Single Judge.

The appeal is, accordingly, dismissed. Consequently, applications for condonation of delay in refiling and filing the appeal are also dismissed.

[RAJESH BINDAL]
JUDGE

22.05.2018
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[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No