

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

CWP-3457-2017

Date of Decision:09.08.2019

Darshan Singh

. Petitioner

Vs.

State of Punjab and others

. Respondents

**CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN
HON'BLE MR.JUSTICE ARUN KUMAR TYAGI**

Present: - Mr.S.S. Rangi, Advocate,
for the petitioner.

Mr.Shreesh Gupta, Sr. DAG, Punjab.

Mr.Tarun Vir Singh Lehal, Advocate,
for respondent No.4.

RAKESH KUMAR JAIN, J.

The petitioner filed an application under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (as applicable to Punjab) [for short 'the Act'] for seeking eviction of respondent No.4 from the land of the Panchayat measuring 6 kanal 12 marla situated within the revenue estate of Village Abdal, Hadbast No.454, Tehsil and Block Dera Baba Nanak, District Gurdaspur and also an application under Rule 20-A of the Punjab Village Common Lands (Regulation) Rules, 1964 (as applicable to Punjab) [for short 'the Rules'] for imposing damages to the tune of twenty times of ₹22,000/-.

The District Development and Panchayat Officer, Gurdaspur (exercising the powers of Collector) allowed the application, holding that respondent No.4 had taken land measuring 6 kanal 12 marla of the Gram Panchayat on lease for a sum of ₹22,000/- in the year 2014 but the

possession was not delivered back to the lessor/Gram Panchayat even after the expiry of lease period. Respondent No.4 was thus considered to be in unauthorized possession and application filed under Section 7 of the Act was allowed with damages, to be paid by respondent No.4, to the tune of ₹4,40,000/- assessed @ 20 times of the amount of earlier lease of ₹22,000/- per annum.

The order dated 26.3.2015, passed by the Collector, was challenged by respondent No.4 by way of an appeal. The Director Rural Development and Panchayat Department, Gurdaspur (exercising the powers of Commissioner) partially allowed the appeal, maintaining the order of eviction but reduced the amount of damages from ₹4,40,000/- to ₹50,000/- without assigning any cogent reason.

The present petition has thus been filed being aggrieved against the order of the Commissioner (appellate authority) dated 23.9.2016.

Learned counsel for the petitioner has submitted that the learned appellate Court has committed a serious error of law in reducing the amount of damages from ₹4,40,000/- to ₹50,000/- arbitrarily without referring to the provisions of Rule 20-A of the Rules. It is submitted that as per Rule 20-A of the Rules, respondent No.4, being a lessee, having overstayed the period of lease, was liable to pay twenty times of the lease amount as damages and there is no discretion vested with the appellate authority to reduce the amount that too arbitrarily, at a particular amount, as has been done in the present case.

On the other hand, learned counsel for the respondents has submitted that Rule 20-A of the Rules though confer powers upon the Court to impose damages but damages to the tune of twenty times was the maximum and could be reduced in the given facts and circumstances of the

case. In support of his submission, he has relied upon two decisions of this Court rendered in the cases of ***“Mukhtiar Singh Vs. State of Punjab and others”*** 2014(2) RCR (Civil) 39 and ***“Bachan Singh and others Vs. The District Development and Panchayat Officer-cum-Collector, Amritsar and others”*** 2009(1) RCR (Civil) 769.

We have heard learned counsel for the parties and perused the record with their able assistance.

In this case, Rule 20-A of the Rules requires interpretation as to whether the Court can reduce the amount of damages from twenty times to any amount on the ground that twenty times is the maximum limit or as to whether Rule 20-A of the Rules provides a room for reducing the amount of damages at the discretion of the appellate authority?

In order to appreciate the controversy involved, it would be relevant to refer to Rule 20-A of the Rules, which read as under: -

“20-A. Damages - (1) If any person who is a lessee of any land vested or deemed to have been vested in a Panchayat does not deliver to the Panchayat vacant possession of the land, immediately after the expiry of the period of lease, he shall for the period he fails to do so, be liable to pay damages to the Panchayat equivalent to twenty times, the amount which would have been payable to the Panchayat had the lease of such land continued during that period.

(2) The provisions contained in sub-rule(1) shall be deemed to be one of the

terms of each lease of land granted by Panchayat after the commencement of the Punjab Village Common Lands Regulation (the amendment) Rules, 1978.”

Admittedly, the land in question is owned by the Gram Panchayat, which is leasing out the same every year. Respondent No.4 had taken the land measuring 6 kanal 12 marla on lease in an auction in the year 2014 @ ₹22,000/- per annum. The said amount was deposited on 11.6.2014 and after the expiry of the period of lease, respondent No.4 was obliged to handover vacant possession of the said agricultural land to the Gram Panchayat. Section 108 of the Transfer of Property Act, 1882 [for short ‘the Act of 1882’] deals with the rights and liability of the lessor and lessee in which Section 108(q) provides that on the determination of lease, the lessee is bound to put the lessor into possession of the property. Since, it was experienced that the lessors, after determination of a period of lease, were not handing over the vacant possession of the property in their possession, Rule 20-A of the Rules was inserted on 18.8.1978 in which it is provided that if any person, who is a lessee of the land of the Panchayat, do not deliver vacant possession after the expiry of the period of lease immediately then he would be liable to pay damages to the lessor which would be equivalent to twenty times the amount which would have been payable to the Panchayat had the lease of such land continued during that period.

In the present case, admittedly the lease was only for a year which had started from 11.6.2014 and determined on 11.6.2015 but possession was not delivered back by the lessee to the lessor, petition under Section 7 of the Act was filed which was also allowed and has attained

finality but at the same time twenty times damages has been imposed on lease amount of ₹22,000/-.

Reliance is placed by counsel for the respondent No.4 on the Single Bench judgment of this Court rendered in the case of ***Bachan Singh and others (Supra)*** and Division Bench judgment of this Court rendered in the case of ***Mukhtiar Singh (Supra)*** which deals with Rule 20-A of the Rules.

In the case of ***Bachan Singh and others (Supra)***, land measuring 52 kanal 5 marla, belonging to the Panchayat, was on lease by the father of the petitioners therein, which was expired on 4.4.1975 but despite that possession was not delivered back and the lease was also not extended. The ejectment order was passed on 25.3.1983 and possession was ultimately taken with the help of police on 14.7.2005. The petitioners therein remained in possession unauthorisedly for a period of 30 years without paying lease money or otherwise compensating the Gram Panchayat and in view thereof, while invoking Rule 20-A of the Rules, damages were imposed but the learned Single Judge has held that asking for depositing twenty times of the amount assessed as ₹12,000/- per year is exorbitant and unreasonable on the ground that twenty times is the maximum but it is nowhere provided that it has to be so awarded. The learned Single Judge has thus held that the amount ordered to be paid is excessive and reduced the amount at its discretion.

In the case of ***Mukhtiar Singh (Supra)***, the land in dispute was 85 kanal 15 marla. In the said case, the order under Section 7 of the Act was passed on 1.10.1991. The Gram Panchayat filed an application for claiming mesne profits in terms of Rule 20-A of the Rules. As per the provisions of Rule 20-A of the Rules, twenty times of the amount was imposed as a

penalty and the petitioner therein was directed to pay an amount of ₹20,58,000/-. However, the Division Bench, while relying upon the decision in the case of **Bachan Singh and others (Supra)**, modified the order of the Collector to the effect that the petitioner would be liable to pay amount @ 400/- per kanal i.e. ₹34,300/- for one year and for three years ₹1,02,900/-. In this case also the Court had used its discretion.

After a perusal of Rule 20-A of the Rules, We have found that the language in which the said Rule is couched does not leave any room for reducing the damages from twenty times to any other amount at the discretion of the Court. Had the language of Rule 20-A of the Rules been such that the lessee, who had overstayed the period of lease, would be liable to pay damages upto twenty times then the matter would have been altogether different but the said word “upto” is conspicuous by its absence in the said rule, therefore, no element of discretion is left with the Court for decreasing the amount of damages at any level, much less on the ground of being excessive or exorbitant. It is really strange that in the case of **Bachan Singh and others (Supra)**, where the petitioners had overstayed for a period of 30 years and were liable to pay ₹7.20 lakh as damages were ordered to pay ₹3 lakh only on the ground that the said amount sounds excessive and also that the damages to the twenty times is maximum which would be available and not that it has to be so awarded. Similarly, in the case of **Mukhtiar Singh (Supra)**, the land involved was 85 kanals 15 marlas and the lessee had overstayed the period of lease and was saddled with the amount of ₹20,58,000/- as damages, which was reduced to ₹34,000/- for one year and awarded only ₹1,02,900/- while relying upon the decision of the case of **Bachan Singh and others (Supra)**.

In our considered opinion, there is a complete misreading of Rule 20-A of the Rules which has not only been inserted to realize the damages for the financial injury caused to the Gram Panchayat at the instance of the lessee who refuses to deliver the possession after the termination of a period of lease but also is a deterrent for those who may ever think of retaining the possession of the land under lease belonging to the Gram Panchayat, which had already expired. It is needless to mention that the period of lease was for one year and as per Section 108(q) of the Act of 1882, the lessee was obliged to return/handover the vacant possession of the land in his possession as a lessee.

Thus in view of the aforesaid facts and circumstances, it is held that Rule 20-A of the Rules, lays down twenty times damages, which cannot be diluted on the ground that it is the maximum limit which can be reduced by the Court because it is not provided in the Rules that 'the damages would be upto twenty times'. The writ petition is, therefore, allowed and the impugned order dated 23.9.2016 is hereby set aside.

(RAKESH KUMAR JAIN)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

09.08.2019

Vivek

Whether speaking /reasoned : *Yes/No*

Whether Reportable : *Yes/No*