

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

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CIVIL WRIT PETITION NO.37946 OF 2018
DATE OF DECISION: APRIL 11, 2019

Karam Singh through his L.Rs and others

.....Petitioners

VERSUS

State of Haryana and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. R. K. Saini, Advocate,
for the petitioners.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioners have approached this Court, assailing the order dated 15.11.2018 (Annexure P-8) passed by the Financial Commissioner, Haryana, dismissing the revision petition of the petitioners under Section 84 of the Punjab Tenancy Act, 1887 (hereinafter referred to as “the 1887 Act”); order dated 04.10.2016 (Annexure P-6) passed by the Commissioner, Hisar Division, Hisar, rejecting the claim of the petitioners; order dated 15.10.2013 (Annexure P-4) passed by the Collector, Hisar, dismissing the appeal of the petitioners and order dated 15.11.2010 (Annexure P-2) passed by the District Revenue Officer-cum-Assistant Collector Ist Grade, Hisar, whereby the order of ejectment of the petitioners from the land in question was ordered by allowing the application under Sections 42, 43 and 45 of the 1887 Act preferred by the Tehsildar, Hisar-respondent No.4.

It is the contention of learned counsel for the petitioners that

the petitioners were always ready and willing to make payment of the *batai* amount but no such opportunity was given to them. He further contends that the findings, which have been recorded by the authorities in their orders, which have been impugned, cannot be accepted as the petitioners are in possession of the land and are continuing as such since 1964 and, therefore, the said orders cannot sustain and deserves to be set-aside.

I have considered the submissions made by learned counsel for the petitioner and with his assistance have gone through the records of the case.

A perusal of the impugned orders would show that not even once the petitioners ever made an effort to make payment of the *batai* amount. It is an admitted position that the petitioners are in possession of the land since 1964 and as a matter of fact the said land was allotted to the predecessor-in-interest of the petitioners, namely, Karam Singh (since deceased and represented through his L.Rs) on lease for a period of one year at 1/3rd *batai*. The petitioners continued to be in illegal possession of the land since then i.e. after the expiry of one year from the date of allotment of the land. An application for ejectment was preferred by the Tehsildar, Hisar, on 26.12.1999 and from the said date onwards, the petitioners were very much aware of the fact that they have not paid any *batai* from the date of allotment as per the allegations made in the application. The findings as recorded by the authorities below are based on proper appreciation of the facts and circumstances as well as the pleadings. The orders, therefore, passed by the authorities below, which have been impugned herein, cannot be said to be not in accordance with law or call for any interference by this Court.

Even on equity, this Court is unable to exercise its discretion in favour of the petitioners in the light of the fact that their conduct was not just and fair and rather it was evasive in nature, especially when they have not paid a single penny to the respondents.

In view of the above, finding no merit in the present writ petition, the same stands dismissed.

April 11, 2019
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No