

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

104

(1)

CR-4157-2017(O&M)

Date of Order: 20.05.2022

Samadh Baba Ram Dass Chela Puran Dass

..Petitioner

Versus

Amilal (since deceased) through his LRs and others

..Respondents

(2)

CR No.4041 of 2017(O&M)

Samadh Baba Ram Dass Cherla Puran Dass

..Petitioner

Versus

Chandan and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Mani Ram Verma, Advocate and
Mr. Nipun Verma, Advocate
for the petitioner.

Dr. Parveen Hans, Advocate
for respondent No.1(i)(a) to (d), 1(ii), 3,5,6,7(a), (b)
and 8 to 10 (in CR-4157 of 2017) and
for respondent no.2, 3 (a) to 3(d) and 4(a) (in CR-4041-2017)

ANIL KSHETARPAL, J(Oral)

By this order two connected revision petitions arising from two connected suits assailing the correctness of an identical order passed by the Civil Court shall stand disposed of. The learned counsel representing the parties are ad-idem that both these revision petitions can be disposed of by a common order.

The petitioner herein is a defendant in a suit for grant of decree of declaration that the plaintiffs have become owners in possession of the property specified in the suit. The plaintiffs claim that they have become owners by virtue of Section 8 of the Punjab Tenancy Act, 1887 read with

Section 2(a), (f) and 3 of Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1952 (hereinafter referred to as 'the 1952 Act').

The Civil Court has adjourned the proceedings in the suit sine-die in order to await the decision of petition filed by the landlord for their eviction.

On 04.07.2017, the Court after noticing the contentions of the learned counsel representing the petitioner passed the following order:-

“Learned counsel for the petitioner contends that a civil suit for declaration filed by the respondents in terms of Section 3 of Vesting of Proprietary Act, 1952 was contested by the defendant-petitioner. Both the parties even led the evidence and the case was matured for arguments. Thereafter, plaintiffs-respondents made a statement on 20.04.2005 for adjourning the case sine die on the ground that eviction proceedings were pending before the Court of Assistant Collector First Grade, Hansi. The said prayer of the plaintiffs was objected to by the petitioner. However, the trial Court was pleased to adjourn the case sine die. Even the prayer for revival of the suit at the instance of the petitioner was not entertained and the prayer was rejected on 13.05.2010. Lernald counsel submits that the respondents have not paid any Batai under the garb of pendency of the suit, nor they have vacated the suit land. The dismissal of the prayer on the plea of the dominus liits is not attracted to the facts of the present case.

Notice of motion for 03.10.2017.”

It is also well settled by a Division Bench that a declaration as to whether the tenant has attained the status of owner in view of the provisions of the Punjab Tenancy Act, 1887 read with 1952 Act, is required to be decided by the Civil Court and the revenue authorities have no jurisdiction to grant such declaration. In these circumstances, the Civil Court has erred in adjourning the suit sine-die.

It is strange that after allowing the parties to litigate for a period of 7 years, when the suit was matured for decision, the Court chose to pass

orders adjourning the case sine-die.

As per the scheme of the Punjab Tenancy Act, 1887 read with the provisions of the Punjab Security of Land Tenures Act, 1953, the eviction of a tenant cannot be ordered by the revenue authorities, whereas the declaration qua ownership on account of abolition of the occupancy can only be granted by the Civil Court.

Keeping in view the aforesaid facts, the orders under challenge, in both the cases, are set aside. The Civil Court is requested to proceed with the suit.

All the pending miscellaneous applications, if any, are also disposed of.

May 20, 2022

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(ANIL KSHETARPAL)
JUDGE

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