

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-19311-2014(O&M)

Date of decision : 01.05.2023

Geetan Singh @ Geetal Singh and others

... Petitioners

Versus

Financial Commissioner (Revenue), Punjab and others

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHLPresent: Mr.Baltej Singh Sidhu, Senior Advocate with
Mr.H.S.Sidhu, Advocate for the petitioners.

Mr.Ferry Sofat, Addl.A.G. Punjab for respondents no.1 to 4.

Mr.Vaibhav Sharma, Advocate and
Ms.Salina Chalana, Advocate for respondents no.5 and 6.**VIKAS BAHL, J.(ORAL)**

1. This is a civil writ petition filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the order dated 06.05.2014 (Annexure P-7) passed by respondent no.1, order dated 22.11.2012 (Annexure P-4) passed by respondent no.2 as well as order dated 05.05.2011 (Annexure P-2) passed by respondent no.3.

BRIEF FACTS OF THE CASE

2 Brief facts of the case are that respondents no.5 and 6 had filed an application seeking eviction of the petitioners from land measuring 30 kanals 12 marlas compromised in khewat no.28, 996 khatoni no.36, 2105 M: 86//10/2 (6-18), 11(8-0), 9/2 (6-12), 10/1(1-2), 12(8-0) situated at village Malout, Tehsil Malout, as per Jamabandi for the year 2004-05. It was the case of respondents no.5 and 6 that the petitioners, who were tenants in the premises in question, had not paid rent for the crops Sauni

repeatedly asked the petitioners to pay the said rent either in cash or in kind. The said application was instituted on 02.02.2010 and the Assistant Collector Ist Grade, Malout, vide order dated 31.08.2010, had dismissed the said application but had directed the petitioners to deposit 1/3rd share of the crops Sauni 2008, Kharif 2009 and Sauni 2009 with 8% interest within a period of 15 days from the date of passing of the order in the treasury. Respondents no.5 and 6 had filed an appeal before the Collector, Sri Muktsar Sahib who, vide order dated 05.05.2011 (Annexure P-2), allowed the said appeal and ordered the eviction of the present petitioners from the land in question. The Collector after considering the entire record found that the present petitioners had failed to produce any record which showed that they had given the share of crops to respondents no.5 and 6 for Sauni 2008, Kharif 2009 & Sauni 2009. The arguments of the counsel for the appellants (i.e., respondents no.5 and 6 herein) to the effect that there was no receipt on file to prove that any rent was paid as well as the argument raised by the petitioners (herein) to the effect that the owners had not given any receipt, were also taken into consideration before passing the said order. The petitioners filed a revision petition before the Financial Commissioner, Punjab, Chandigarh, and the Financial Commissioner, Punjab, Chandigarh vide order dated 06.05.2014 (Annexure P-7), dismissed the said revision petition after observing that the relationship of landlord and tenant between the parties was established on record and it had been concurrently found by the authorities that the petitioners herein had failed to pay the due rent to the respondents. The facts of the case were duly considered in paragraph 2 of the said order and even the arguments of both the counsels were noticed in paragraphs 3 and 4 of the said order. The arguments of learned counsel for respondents no.5 and 6 herein to the effect that law was well settled

inasmuch as even a single default would be enough to order the eviction of a tenant was also taken note of.

ARGUMENTS ON BEHALF OF THE PETITIONERS

3. Learned senior counsel for the petitioners has submitted that in the present case the petitioners are the tenants since the past 40 years of the land in question and were on 1/3rd batai and respondents no.5 and 6 had purchased the property on 11.04.2008 and had thereafter filed the eviction petition on 02.02.2010 on the ground of non-payment of rent. It is submitted that the petitioners have been paying rent for all these years and thus, it is not plausible that they would not pay rent for Sauni 2008, Kharif 2009 and Sauni 2009. It is further submitted that in fact the rent was paid but no receipt was issued by the private respondents and thus, the impugned orders evicting the present petitioners from the land in question are illegal and against law. Learned senior counsel for the petitioners has relied upon the order passed by the Assistant Collector Ist Grade dated 31.08.2010 to contend that the Assistant Collector Ist Grade accepted the arguments of the petitioners and had rejected the arguments raised by the counsel for respondents no.5 and 6 and that the said order has been illegally set aside by the Collector, the Commissioner and the Financial Commissioner. It is submitted that before the eviction order was passed against the petitioners, it was imperative for the Court to give an affirmative finding to the effect that there was a failure on the part of the tenant to pay the rent and that the said failure must be to pay rent regularly which finding has not been given and for the said aspect, reliance has been placed upon the judgment of the Hon'ble Supreme Court of India in *Raj Kanta vs. The Financial Commissioner, Punjab and Ors.* reported as *AIR 1980 SC 1464*. It is

non-speaking and cryptic. It is stated that the arguments of the parties have been recorded but no affirmative finding has been given by the Financial Commissioner and thus on the said ground the impugned order deserves to be set aside and in support of his said argument, learned senior counsel for the petitioners has relied upon the judgment of the Hon'ble Supreme Court of India in *M/s Kranti Associates Pvt. Ltd. & anr. vs. Sh.Masood Ahmed Khan and others*, reported as **2010(9) SCC 496**.

4. Learned senior counsel for the petitioners has argued that the petitioners had moved an application before the Assistant Collector Ist Grade, Malout on 14.08.2011 for deposit of rent of share of crops of Hari 2011 and Sauni 2011 and the said amount was deposited but however respondents no.5 and 6 did not appear to take the said amount and with respect to the same, reference has been made to the order dated 06.12.2012 (Annexure P-5). It is submitted that on account of a typographical error at page 65 of the paper book, it has been wrongly mentioned that crop is of Hari 2001 and Sauni 2001 whereas as per the vernacular at page 130 of the paper book, the deposit is regarding Hari 2011 and Sauni 2011. It is further submitted that the petitioners had also deposited the rent in pursuance of the order passed by the Assistant Collector Ist Grade on 31.08.2010 within a period of 15 days. Learned senior counsel for the petitioners has relied upon the judgment of a Coordinate Bench of this Court in case titled as “*Daya Chand vs. State of Haryana*” reported as **2010(2) L.A.R. 368** to contend that in a situation when the petitioner had deposited the arrears of rent in pursuance of the order passed by the Assistant Collector 1st Grade, then, the eviction order should not have been passed.

ARGUMENTS ON BEHALF OF RESPONDENTS NO.5 AND 6

has opposed the present petition and has submitted that the Collector, the Commissioner as well as the Financial Commissioner have concurrently found that the petitioners had not paid the rent for Sauni 2008, Kharif 2009 and Sauni 2009 either in cash or in kind. It is submitted that no receipt with respect to the payment of rent either in cash or in kind with respect to the said period has been produced which shows that the said amount was not paid. Learned counsel for respondents no.5 and 6 has referred to Section 14 of the Punjab Security of Land Tenures Act, 1953 (in short “the Act”) to contend that the said provision specifically states that it is the duty of the landlord to furnish receipt for the rent received from the tenant and further sub clause (2) specifically provides that any land owner who fails to give such receipt, shall on conviction be punishable with a fine which may extend to one hundred rupees. It is argued that no proceedings under Section 14 of the Act have been initiated by the petitioners against respondents no.5 and 6 which further shows that there was never any question of the respondents No.5 & 6 issuing any receipt since no rent either in cash or kind was paid. It is stated that under Section 14(A)(iii) of the Act, it was open to the tenant to move an application in writing before the Assistant Collector Second Grade in case the landlord even after receiving the rent refuses to issue a receipt. The same has admittedly not been done. It is argued that even the Assistant Collector Ist Grade, Malout had directed the petitioners to pay 1/3rd share of crop Sauni 2008, Kharif 2009 and Sauni 2009 with 8% interest within a period of 15 days from the date of said order and thus even the Assistant Collector Ist Grade, Malout had found that the rent for the said produce was due. It is submitted that the finding of the said Assistant Collector Ist Grade prior to the said direction,

had never challenged the order of the Assistant Collector Ist Grade, Malout, which also shows that they accepted the fact that rent for the said period was due from them. It is further highlighted that the Assistant Collector Ist Grade in the order dated 31.08.2010 had noticed that one of the witnesses in his cross-examination, had stated that he cannot say as to how many boxes were given by the petitioners. Even the statement of petitioner no.2 Darshan Singh to the effect that he did not know as to how many quintals of wheat were given to the respondents with regard to Sauni 2009 was also noticed. It is submitted that reliance sought to be placed by the learned senior counsel for the petitioners upon the order dated 06.12.2012 (Annexure P-5) would also not further the case of the petitioners inasmuch as a perusal of the said order would show that the date of institution of the application for depositing the rent for the crops Hari 2011 and Sauni 2011 is 15.08.2011 which is subsequent to the date of order of eviction i.e., 05.05.2011. It is submitted that the said application pertains to a different period i.e. 2011 and not to the period 2008 and 2009 which is the period in question under consideration in the impugned order. It is further submitted that a vested right accrued to respondents no.5 and 6 after the passing of the eviction order and that no amount in pursuance of the order dated 06.12.2012 was ever received by respondents no.5 and 6. Learned counsel for respondents no.5 and 6 have further referred to the order of the Collector as well as the Commissioner and the Financial Commissioner and has submitted that the said orders have been passed after taking into consideration the arguments raised by both the parties and the record and have been passed after due application of mind and thus, deserve to be upheld. It is argued that the Collector, Commissioner and the Financial Commissioner had found that

2009 and Sauni 2009 was paid and that it was settled law that even in case a single default in the payment of rent was proved, then the order of ejectment of the tenant is required to be passed by the authorities. In support of said arguments, reliance has been placed upon the judgment of Hon'ble Supreme Court of India in ***Raj Kanta's*** case (supra). Learned counsel for respondents no.5 and 6 has further highlighted the fact that although in pursuance of the order dated 22.04.2015 passed by the Hon'ble Division Bench of this Court in LPA no.596 of 2015 titled as "***Geetan Singh @ Geeta Singh and others vs. Financial Commissioner (Revenue) Punjab and others***", the petitioners had deposited the rent arrears upto Rabi 2015 but thereafter they have not deposited any rent. It is submitted that CM-7570-CWP-2019 was filed by the respondents No.5 and 6 in which it was specifically stated in paragraph 4 that the rent after 2015 has not been deposited by the petitioners and that notice in the said application was issued on 15.05.2019 and on 10.01.2020 a date was taken by the petitioners to file reply to the said application but no reply has been filed to the said application nor any receipt has been produced to show that after Rabi 2015 rent has been paid although the petitioners are in possession of the land owned by respondents no.5 and 6. With respect to the judgment of the coordinate Bench of this Court in ***Daya Chand's case (supra)*** relied upon by the learned senior counsel for the petitioners, it is submitted that the said case is with respect to State of Haryana and the provisions of Section 14 (A)(i) of the Act are different for the State of Punjab and State of Haryana inasmuch as in Section 14(A)(i) in the State of Haryana by virtue of Act no.5 of 1991, a proviso has been added and as per the said proviso, in case the tenant makes the payment of arrears of rent and interest at 8% per annum on the arrears together with

the first date of hearing or within 15 days from the date of such hearing, then the tenant is not to be evicted and that there is no such proviso in Section 14(A)(i) in the State of Punjab. Thus, it is submitted that reliance placed upon on the said judgment by the learned senior counsel for the petitioners is completely misconceived. It is submitted that in view of the abovesaid facts and circumstances, the writ petition be dismissed and the impugned orders be upheld.

ANALYSIS AND CONCLUSION

6. This Court has heard learned counsel for the parties and perused the paper book.

7. From a perusal of the record as well as the orders passed by the authorities, the following facts emerge:-

i) The petitioners were the tenants in the land in question, on payment of 1/3rd batai and there was a relationship of landlord and tenant between the petitioner & respondents No.5 and 6 after respondents no.5 and 6 had purchased the property in question vide registered sale deed dated 11.04.2008. The Commissioner, in his order dated 22.11.2012 (Annexure P-4 at page 61), had given an affirmative finding on the said aspect. Even the Financial Commissioner in his order dated 06.05.2014, in para 5 at page 89, has given a finding on the said aspect. The said aspect has not been challenged before this Court.

ii) There is no receipt with respect to payment of rent to the respondents for the crops of Sauni 2008, Kharif 2009 and Sauni 2009 produced by the petitioners. A reference in this regard may be made to the order dated 31.08.2010 (Annexure P-1)

passed by the Assistant Collector Ist Grade wherein (at page 40 of the paperbook), the arguments of the petitioners (who were respondents therein) to the effect that no receipt was given by the landlord, had been recorded. The Collector in his order dated 05.05.2011 had recorded (at page 47) that the petitioners had failed to produce any record which would show that they had given the rent to the present respondents for the said three crops. To a similar effect, is the finding of the Commissioner (at pages 61 and 62 of the paper book). The said finding could also not be rebutted before this Court as no receipt with respect to the rent for crop Sauni 2008, Kharif 2009 and Sauni 2009 has been annexed with the present writ petition or produced before this Court.

iii) Section 14(A)(iii) of the Punjab Security of Land Tenures Act, 1953 provides that if a landlord refuses to accept rent from his tenant or demands rent in excess of what he is entitled to or refuses to give a receipt, the tenant may in writing inform the Assistant Collector Second Grade, having jurisdiction of the same. Section 14 of the Act 1953 even provides for penal action in case the landlord after receiving the rent fails to give any such receipt. Sections 14 as well as Section 14-A and 14-A(iii) are reproduced hereinbelow:-

“14. Duty of land-owner to furnish receipt for rent received from tenant.(1) Every land-owner shall give or cause to be given a valid receipt to the tenant in the form prescribed for the rent received by him or on his behalf.

(2) Any land-owner who fails to give or cause to be given such receipt, shall on conviction be punishable with a fine which may extend to one hundred rupees.

[14-A. Procedure for ejectment and recovery of arrears of rents etc.- Notwithstanding anything to the contrary contained in any other law for the time being in force, and subject to the provisions of section 9-A,-

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(iii) (a) if a landlord refuses to accept rent from his tenant or demands rent in excess of what he is entitled to under this Act, or refuses to give a receipt, the tenant may in writing inform the Assistant Collector, Second Grade, having jurisdiction of the fact,

(b) on receiving such application, the Assistant Collector shall by a written notice require the landlord to accept the rent payable in accordance with this Act, or to give a receipt, as the case may be, or both, within 60 days of the receipt of the notice.”

In the present case, it is not in dispute that no application has been filed by the petitioner before the Assistant Collector 2nd Grade informing him of non-issuance of receipt by the respondents No.5 and 6 nor any proceedings have been initiated by the petitioners against the landlord for not having issued the receipt. Thus, the plea of the petitioners to the effect that they had paid the rent but receipt was not issued, has been rightly rejected by the Collector, Commissioner and the Financial Commissioner. Even a perusal of order dated 31.08.2010 passed by the Assistant Collector Ist Grade (Annexure P-1) would show that the arguments of learned counsel for respondents no.5 and 6 referring to the statement of Darshan Singh-petitioner no.2, who in his cross-examination, has stated that he did not know as to how many quintals of wheat were given by the petitioner to respondents no.5 and 6, has been noticed, but has not been considered at the time of passing of final order. Moreover, the Assistant Collector Ist Grade although, rejected the application of the petitioners but

had directed the present petitioners to deposit 1/3rd share of crops for Sauni 2008, Kharif 2009 and Sauni 2009 with 8% interest and the said part of the order has never been challenged by the petitioners. In case the petitioners had actually paid the rent for the said period, the petitioners would have certainly challenged the order of the Assistant Collector Ist Grade to the extent whereby the petitioners were directed to make the payment for the said produce to respondents no.5 and 6 as it is their version that they had already paid the said rent.

(iv) In the present case, no interim relief was initially granted in favour of the petitioners and on 10.04.2015, an application was moved by the petitioners for stay of dispossession from the land in dispute and the Coordinate Bench of this Court had observed that since, the main case had been listed for 13.08.2015, thus, at that stage, it would be inappropriate to pass any interim order. Against the said order, the petitioners filed LPA no.596 of 2015 which was decided on 22.04.2015 in which it was directed that parties will maintain status quo till decision by the Single Judge on merits subject to the petitioners depositing the arrears of mesne profit/rent upto Hadi (Rabi) 2015 on or before 15.05.2015. It is the case of respondents no.5 and 6 that no rent subsequent to the year 2015 has been deposited and with the said averments, respondents no.5 and 6 have moved an application CM-757-CWP-2019 and para 4 of the said application is reproduced hereinbelow:-

“That, as per the directions in the aforesaid order dated 10.4.2015, the Petitioners deposited the rent arrears upto Rabi, 2015, however, the Petitioners have not deposited any rent

thereafter to the Applicant/Respondent 5 and 6. The Petitioners have been in possession of the suit land without paying any rent to the land owners since April, 2015 till present.”

Notice was issued in the said application on 15.05.2019 and on 10.01.2020, an adjournment was sought by the learned counsel for the petitioners to file reply to the said application but no reply has been filed to the application till date. There is nothing on record to suggest that after 2015, any rent has been paid to respondents no.5 and 6 or has been offered to them.

8. In the background of the aforesaid facts, it would be relevant to take note of the relevant provisions of the Punjab Security of Land Tenures Act, 1953 as well as the judgments cited by both the learned counsel for the parties. Section 9(i), Section 10(2) and Section 14A(i) of the Act of 1953, which are relevant for adjudicating the present case are reproduced herienbelow:-

9. Liability of tenant to be rejected- [(1) Notwithstanding anything contained in any other law for the time being in force no land owner shall be competent to eject a tenant except when such tenant-

(i) is a tenant on the area reserved under this Act or is a tenant of a small landowner [or]

(ii) fails to pay rent regularly without sufficient cause [or]

(iii) is in arrears of rent at the commencement of this Act [or]

(iv) has failed, or fails , without sufficient cause, to cultivate the land comprised in his tenancy in the manner or to the extent customary in the locality in which the land is situate [or]

(v) has used, uses the land comprised in his tenancy in a manner which has rendered, or renders it unfit for the purpose for which he holds it [or]

(vi) has sublet the tenancy or a part thereof; provided that where only a part of the tenancy has been sublet, the tenant shall be liable to ejected only from such part [or]

(vii) refuses to execute a Qabuliyat or a Patta, in the form prescribed, in respect of his tenancy on being called upon to do so by an Assistant Collector on an application made to him for this purpose by the land-owner{and}

(viii) has the tenancy for a fixed term, supported by a registered agreement entered into by the landowner and the tenant, and such term has expired.

Explanation -- For the purposes of clause (iii) a tenant shall be deemed to be in arrears of rent at the commencement of this Act, only if the payment of arrears is not made by the tenant within a period of two months from the date of notice of the execution or decree or order, directing him to pay such arrears of rent.]

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10. Restoration of tenant ejected after the 15th of August, 1947-

(2) On receipt of an application the Assistant Collector shall, after giving to the parties notice in writing and a reasonable opportunity to be heard, determine the dispute summarily, and shall keep a memorandum of evidence and a gist of his final order with brief reasons therefor.

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1[14-A. Procedure for ejectment and recovery of arrears of rents etc.-Not with standing anything to the contrary contained in any other law for the time being in force, and subject to the provisions of section 9-A.-

(i) a land owner desiring to eject a tenant under this Act shall apply in writing to the Assistant Collector First Grade having jurisdiction, who shall thereafter proceed as provided for in sub-section (2) of sub-section 10 of this Act, and the provisions of sub-section (3) of the said section shall also apply in relation to such application, provided that the tenants rights to compensation and acquisition of occupancy rights, if any under the Punjab Tenancy Act, 1887 (XVI of 1887), shall not be affected”

A perusal of Section 9 would show that the landlord can file an application for ejectment on various grounds which have been mentioned therein including the ground of failure of the tenant to pay rent regularly without sufficient cause. Section 14-A(i) entitles the landlord to file an application to eject the tenant under this Act before the Assistant Collector Ist Grade under this Act who is to required to proceed thereafter under Section 10(2) of the Act. Section 10(2) of the Act provides that the Assistant Collector after giving notice in writing and a reasonable opportunity of being heard to the parties, has to determine the dispute summarily. The said procedure has been duly followed in the present case.

The question as to whether if, even a single default made by the tenant would, entitle the landlord to seek eviction, came up for consideration before the Hon'ble Supreme Court in the case of **Raj Kanta** (supra). It will be relevant to note that the said judgment has been relied upon by both the learned senior counsel for the petitioners as well as learned counsel for respondents no.5 and 6. The relevant part of the said judgment is reproduced hereinbelow:-

"4. The only point that has been canvassed before us is as to whether or not the High Court was right in interpreting s.9 of the Act by holding that the term 'regularly' used in s.9(1) (ii) would not include a single default. While the Revenue courts had held that the mere fact that the tenants made a single default in payment for the rent for Kharif 1961 was sufficient to attract the penalty of ejectment envisaged by s. 9(1) (ii) of the Act, the High Court took the view that on a proper interpretation of the term 'regularly' it will appear that the legislature did not contemplate that ejectment should be ordered straightaway even if a single default, though unexplained, is committed by the tenant which interpretation would run against the avowed object of the legislation which was to advance and ameliorate the lot of the tenants. The High Court had considered the matter at very great length and placed a very wide interpretation on the term 'regularly' so as not to include within its ambit one single default. It has also referred to a number of authorities and Dictionaries to show that the word 'regularly' does not mean absolute symmetry. Having gone through the reasons given by the High Court we are unable to agree with the view taken either by the single Judge or the Division Bench of the High Court. There can be no doubt that the Act is a piece of social legislation meant to ameliorate the lot of the tenants and to further the rights of the tenants by conferring on them the status of a permanent tenancy or the rights to purchase the land on payment of instalments. At the same time, we cannot overlook the fact that the landlords within a very limited sphere have been assured protection in respect of the rights which they possess in the land and have been given the right to eject the tenants on specified grounds which are contained in the various sub-clauses of s. 9 of the Act. One such sub-clause is sub-clause (ii) which falls for interpretation in the instant case. Section 9(1) as also clauses (i) and (ii) may be extracted thus:-

"9. Liability of tenant to be ejected:-

1. Notwithstanding anything contained in any other law for the time being in force, no land-owner shall be competent to eject a tenant except when such tenant-

(i) is a tenant on the area reserved under this Act or is a tenant of a small land-owner; (or)

(ii) fails to pay rent regularly without sufficient cause;"

5. While interpreting the word 'regularly' the High Court seems to have overlooked two important circumstances. In the first place, the word 'regularly' has been used immediately after the phrase 'fails to pay rent' and is followed by the words 'without sufficient cause'. Secondly, there is nothing in the section to indicate that the legislature intended to exclude one single default. The High Court attempted to supply words to the section which are not there. In doing so it has failed to consider that if once the court was to lay down a particular line of demarcation by extending the connotation of the word 'regularly' to exclude one default, it is difficult to explain why the legislature contemplated only one default and not two or three for that matter.

6. In order to construe the plain language of s.9(1) (ii) which admits of no ambiguity, it may be necessary to look to the object and the purposes of the Act. In the case of *Bhagirath Ram Chand v. State of Punjab & Ors.* a full Bench of the Punjab & Haryana High Court held that the Preamble of the Act stated that it was intended to provide for the security of land tenure and other incidental matters. It is no doubt true that the main thrust of the provisions of the Act are directed towards preventing the landlords from ejecting their tenants except on the grounds mentioned in s.9, but at the same time, it cannot be denied that the legislature undoubtedly provided some protection to the landlords by conferring on them a limited right to eject their tenants and within this limited sphere, the right was absolute and could not be curtailed by interpreting clause (ii) of s. 9(1) of the Act through a process of twisting the law and doing violence to the language of the section. To begin with, the word 'regular' is derived from the word 'regula' which means 'rule' and its first and legitimate signification, according to Webster, is 'conformable to a rule, or agreeable to an established rule, law, or principle, to a prescribed mode. In Words and Phrases (Vol. 36A, p.241) the word 'regular' has been defined as 'steady or uniform in course, practice or occurrence, etc., and implies conformity to a rule, standard, or pattern'. It is further stated in the said Book that 'regular' means steady or uniform in course, practice, or occurrence; not subject to unexplained or irrational variation. The

word 'regular' means in a regular manner, methodically, in due order. Similarly, Webster's New World Dictionary defines 'regular' as 'consistent or habitual in action, not changing, uniform, conforming to a standard or to a generally accepted rule or mode of conduct:

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8. On a consideration of the authorities mentioned above, it seems to us that the legislature clearly intended to use the word 'regularly' to mean payment of rent in a uniform and consistent manner without any breach or default. The legislature never contemplated that a single default could be condoned. This inference is fortified by the words "without sufficient cause". In other words, the legislature clearly provided that if the tenant had committed a default, whether one, two or more, the same could only be condoned if sufficient cause is shown and not otherwise. If, however, we accept the interpretation of the High Court, then the words "sufficient cause" becomes, absolutely redundant.

9. On an overall consideration of the matter, a correct interpretation of the plain language and the words and phrases used in clause (ii) of s.9(1) of the Act seems to us that the word 'regular' connotes a consistent course of conduct without any break or breach and the words 'regular payment of rent' mean that the rent should be paid punctually without any default or laxity. Although the Act is heavily loaded in favour of the rights of the tenants so as to confer on them several important benefits and privileges yet as the Act is confiscatory in nature, so far as the landlord is concerned it should be strictly construed within the limited sphere inasmuch as the landlord is conferred limited grounds on which ejectment is permissible under s.9 of the Act which appears to be a safety valve for the limited rights that are left with the landlord under the Act. In order therefore to advance the object of the Act so as to assure the limited protection to the landlord, the language employed in the various clauses of s. 9 has to be construed so as to give real benefit to the landlord within the limited range that the section operates. In the instant case, the words 'failure to pay rent regularly without sufficient cause' postulate the following conditions:-

- (1) there must be a failure on the part of the tenant to pay rent;
- (2) such failure must be to pay rent regularly, that is to say, the rent should be paid punctually consistently without any break or breach;
- (3) if there is any default ranging from one to several, the tenant has got to show sufficient cause if his case is to be taken out of the mischief of s. 9(1) (ii).

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12. For the reasons given above, we are satisfied that the High Court took an erroneous view of law in interpreting clause (ii) of s. 9(1) of the Act as the tenants have been proved, in this case, to have committed default in the payment of rent for Kharif 1961, they must be held to have failed to pay the rent regularly without sufficient cause as envisaged by clause (ii) and are, therefore, legally entitled to ejectment. The view taken by the High Court is legally erroneous and cannot be supported. In Civil Appeal No. 1319 of 1970, an objection was taken by the appellant that the appeal had abated as the heirs of respondent No. 1, Ganga Ram, were not brought on record. This objection has been overruled and we have allowed substitution as per our separate order dated 28th April 1980. The result is that the appeals are allowed, the judgment of the High Court is set aside and the order of the Collector directing ejectment of the tenants is restored. The writ petitions filed by tenants before the High Court stand dismissed and the one filed by the appellant against Kalu Ram stands allowed. In the circumstances of the case, there will be no order as to costs.”

A perusal of the above judgment would show that in the said case, the tenants did not pay the rent with respect to Kharif 1961 and the Hon’ble Supreme Court after considering the entire law and the provisions of Section 9 of the Act, came to the conclusion that since the tenants have committed a default in payment of Kharif 1961 it must be held that they have failed to pay the rent regularly without sufficient cause as envisaged under Clause (ii) of Section 9(1) and therefore, are entitled to ejectment and the appeals filed by the landlord were allowed and the order of the High Court was set aside whereas the order of the Collector directing ejectment of the tenant was restored. The writ petition filed by some of tenants was, however, dismissed. It was observed that although the act was a piece of social legislation meant to ameliorate the lot of the tenants but it could not be over looked that the landlords within a very limited sphere have been assured protection in respect of rights which they possess in the land and

are contained in various sub clauses of Section 9. It was observed that there is nothing in Section 9 to indicate that the legislature intended to exclude one single default and that the legislature had used the word “regularly” to mean payment of rent in a uniform and consistent manner without any breach or default and the legislature had never contemplated that single default could be condoned. It was observed that section 9 postulates three conditions:-

- (1) there must be a failure on the part of the tenant to pay rent.*
- (2) Such failure must be to pay rent regularly, that is to say, the rent should be paid punctually consistently without any break of breach.*
- (3) in case there was any default ranging from one to several, the tenant has got to show sufficient cause if his case is to taken out of the mischief of Section 9(1)(ii).*

The ratio of law laid down by the Hon’ble Supreme Court in the above said judgment fully support the case of respondents no.5 and 6 as in the present case from the facts which have been enumerated hereinabove, it is clear that the petitioners have defaulted in making payment of rent for three crops i.e., Sauni 2008, Kharif 2009 and Sauni 2009 and no plea to show sufficient cause has been taken before the authorities or before this Court and rather the plea taken by the petitioners is that they had made the payment of rent for the said period, which they have failed to prove and thus, the orders passed by the Collector, Commissioner and the Financial Commissioner ordering the ejectment and upholding the same, cannot be faulted with.

9. Before parting, it would be relevant to deal with the judgment and arguments raised by learned senior counsel for the petitioners. Reliance has been placed by the learned counsel senior counsel for the petitioners upon the judgment of Co-ordinate Bench of this Court passed in “**Daya**

Chand and another Vs. State of Haryana and others” to contend that the Assistant Collector Ist Grade Sonipat was required to assess the arrears of rent and also grant an opportunity to the petitioners to make the payment and in case, the amount assessed was paid then the ejectment order should not be passed, is completely misconceived. The said judgment has been passed keeping in view the provisions as applicable to the State of Haryana which are materially different from the provisions applicable to the State of Punjab. Section 14-A(i) as applicable to the State of Haryana is reproduced hereinbelow:-

“(i) a land owner desiring to eject a tenant under this Act shall apply in writing to the Assistant Collector First Grade having jurisdiction, who shall thereafter proceed as provided for in sub-section (2) of sub-section 10 of this Act, and the provisions of sub-section (3) of the said section shall also apply in relation to such application, provided that the tenants rights to compensation and acquisition of occupancy rights, if any under the Punjab Tenancy Act, 1887 (XVI of 1887), shall not be affected.

[Provided that if the tenant makes payment of arrears of rent and interest, to be calculated by the Assistant Collector, First Grade, at eight percentum per annum on such arrears together with such costs of the application, if any, as may be allowed by the Assistant Collector, First Grade, either on the day of first hearing or within fifteen days from the date of such hearing, he shall not be ejected].”

A perusal of the above-reproduced provision would show that in the State of Haryana, a proviso has been incorporated vide the Haryana Act no.5 of 1991 which provides that an assessment order is required to be passed by the Assistant Collector Ist Grade at the initial stage, much prior to the order of ejectment and in case the tenant deposits the amount assessed either on the first date of hearing or within 15 days from the date of such hearing then he shall not be ejected. The said proviso has not been incorporated in the State of Punjab and thus, in the State of Punjab, the

costs etc. nor is he required to give an opportunity to the tenant for making payment of the same and the authorities in the State of Punjab, after considering the pleadings, documents and evidence on record are required to return a finding as to whether the tenant has defaulted in the payment of rent or not, without sufficient cause and in case it is found that the tenant has defaulted in the payment of rent without sufficient cause, which would include even a single default as held by the Hon'ble Supreme Court in the case of ***Raj Kanta*** (Supra) then the ejectment order is required to be passed. The judgment in the case of ***Daya Chand*** was passed keeping in view the proviso as applicable to State of Haryana. In the said case, the Assistant Collector Ist Grade, Sonipat had assessed the arrears of rent and had directed the tenants to deposit the same and the tenants deposited the said amount and accordingly, ejectment order was not passed and the said order was challenged by the landlord in the writ Court and the writ court had dismissed the writ petition after observing that the procedure adopted and the rent deposited by the tenant was in accordance with the provisions of Section 14-A. In the present case, it is not in dispute that no such assessment has been done or was required to be done and thus, the judgment in ***Daya Chand's case*** would not in any way further the case of the petitioners.

10. Reliance was also sought to be placed by learned senior counsel for the petitioners on the order dated 06.12.2012 (Annexure P-5) which would also not further the case of the petitioners. The order dated 06.12.2012 was passed on an application instituted on 14.08.2011 which is after the passing of the ejectment order dated 05.05.2011 by the Collector, Shri Muktsar Sahib. The application moved by the petitioners was for

2001 and Sauni 2001 in Annexure P-5 at page 65) and not with respect to the period in question. No law has been cited before this Court to show that in case for a subsequent period, the petitioners / tenants after passing of eviction order, deposited the rent for a particular year then the same could be made a ground to set aside the eviction order passed with respect to the non-payment of rent for an earlier/different period.

11. The argument of learned senior counsel for the petitioners to the effect that the order of the Financial Commissioner is non-speaking and thus, on the said ground, the impugned orders deserve to be set aside also deserves to be rejected. In this regard, it would be relevant to note that the Assistant Collector Ist Grade, Malout vide his order dated 31.08.2010 after having noted the cross-examination of Darshan Singh-petitioner no.2 and also after having noticed the argument of the tenants to the effect that no receipt had been given by the landlord, rejected the application of the landlord for eviction on surmises and conjectures. The Assistant Collector Ist Grade, Malout had, however, directed the respondents to deposit 1/3rd share of crops for Sauni 2008, Kharif 2009 and Sauni 2009 with 8% interest. The Collector and the Commissioner vide detailed orders had come to the conclusion that the petitioners had failed to produce any record to show that they have paid the rent for the relevant period and that there was no sufficient cause for them to not pay the said rent. It was reiterated by the said authorities that the petitioners had not produced any receipt regarding the payment of the same and even the witnesses produced by the petitioners could not state as to how many quintals of wheat were given by the petitioners to the respondents-landlord. The Financial Commissioner was the 4th authority which considered the matter and before the Financial

by the Collector and the Commissioner and thus, the Financial Commissioner was not required to give elaborate reasons moreso, when the Financial Commissioner was upholding the orders of the Collector and the Commissioner. Even a perusal of the order of the Financial Commissioner would show that the same is running into 4 pages and the facts have been noticed in paragraph 2 of the order, in paragraph 3 the arguments raised by the counsel for the petitioners has been noticed and in paragraph 4 the arguments raised by respondents no.5 and 6 have been noticed and thereafter in paragraph 5 the Financial Commissioner had dismissed the revision petition by observing that it has been established on record that a relationship of landlord and tenants exists between the parties and that all the subordinate revenue authorities had concurrently found that the petitioners have failed to pay rent due to the respondents and further observed that there was no infirmity or illegality in the order ejecting the petitioners. To the mind of this Court, the order passed by the Financial Commissioner cannot be stated to be a non-speaking order moreso, in view of the fact that the Collector and the Commissioner had already rejected the pleas raised by the petitioners. Moreover, this Court has considered arguments raised by learned senior counsel for the petitioners and found them to be without merit and thus, this Court has not been persuaded to set aside the orders passed by the authorities.

12. The judgment of the Hon'ble Supreme Court in *M/s Kranti Associates Pvt. Ltd.'s* case (supra) relied upon by learned senior counsel for the petitioners, is on different facts. A perusal of the paragraph 3 of the said judgment would show that the Commission had not given any reasons while dismissing the revision petition filed by the builder vide order dated

Commission, the revision petition is dismissed. The same was a four line order passed by the Commission. Even a perusal of paragraphs 53 and 54 of the said judgment would show that the order of State Commission dated 26.07.2007 with respect to the appeal filed by the bank, was set aside on account of the fact that the State Commission had dismissed the bank’s appeal by observing that the same is dismissed for the reasons given in the order dated 26.07.2007 passed in the connected appeal filed by the builder. It was observed that since the Bank had filed a separate appeal, it had a right to be heard independently in support of its appeal and the said right had been denied and thus, the orders passed by the Commissions in the said case were set aside. The facts of the present case are different from the facts of abovesaid judgments as has been detailed in paragraphs 7 and 10 of the present order.

13. Keeping in view the above said facts and circumstances, the present writ petition is dismissed and the order dated dated 06.05.2014 (Annexure P-7) passed by respondent no.1, order dated 22.11.2012 (Annexure P-4) passed by respondent no.2 as well as order dated 05.05.2011 (Annexure P-2) passed by respondent no.3 are upheld. No order as to costs.

May 01, 2023

Davinder Kumar

(VIKAS BAHL)

JUDGE

Whether speaking / reasoned

Whether reportable

Yes/No

Yes/No