



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

201 (13 cases)

CWP-2365-1999 (O&M)
Date of Decision: 22.10.2024

SHIROMANI PANTH AKALI BUDHA DAL
.... PETITIONER
V/S

FINANCIAL COMMISSIONER (APPEALS)-I, PUNJAB CIVIL
SECRETARIAT, CHANDIGARH AND ORS RESPONDENTS

Sr. No.	Case No.	Parties Name
2.	CWP-14871-2001 (O&M)	SHROMANI PANTH AKALI BUDHA DAL V/S FINANCIAL COMMISSIONER (APPEAL-I) PUNJAB CIVIL SECRETARIATE, CHANDIGARH AND ORS
3.	CWP-14872-2001 (O&M)	SHROMANI PANTH AKALI BUDH DAL V/S FINANCIAL COMMISSIONER (APPEALS-I) PUNJAB CIVIL SECRETARIATE, CHANDIGARH AND ORS
4.	CWP-16291-2001 (O&M)	SHIROMANI PANTH AKALI BUDHA DAL, TALWAND V/S FINANCIAL COMMISSIONER (APPEAL-I) PUNJAB CIVIL SECRETARIAT, CHANDIGARH AND ORS
5.	CWP-6026-2000 (O&M)	SHRIMONI PANTH AKALI BHUDHA DAL V/S FINANCIAL COMMISSIONER (APPEALS-I) PUNJAB CIVIL SECRETARIAT, CHANDIGARH AND ORS
6.	CWP-6027-2000 (O&M)	SHRIMONI PANTH AKALI BUDHA DAL V/S FINANCIAL COMMISSIONER (APPEALS-I) PUNJAB CIVIL SECRETARIATE, CHANDIGARH AND ORS
7.	CWP-6043-2000 (O&M)	SHROMANI PANTH AKALI BUDHA DAL TALWANDI SABO V/S FINANCIAL COMMISSIONER, (APPEALS-I) PUNJAB CIVIL SECRETARIATE, CHANDIGARH AND ORS
8.	CWP-6526-2000 (O&M)	SHIROMANI PANTH AKALI BUDHA DAL V/S FINANCIAL COMMISSIONER (APPEALS-I) PUNJAB CIVIL SECRETARIATE, CHANDIGARH AND ORS
9.	CWP-6531-2000 (O&M)	SHRIMONI PANTH AKALI BUDHA DAL TALWANDI SABHO V/S FINANCIAL COMMISSIONER (APPEAL-I) PUNJAB CIVIL SECRETARIATE, CHANDIGARH AND ORS
10.	CWP-6566-2000 (O&M)	SHIROMANI PANTH AKALI BUDHA DAL



		V/S FINANCIAL COMMISSIONER (APPEALS-I) PUNJAB CIVIL SECRETARIATE, CHANDIGARH AND ORS
11.	CWP-7123-2000 (O&M)	SHIROMANI PANTH AKALI V/S FINANCIAL COMMISSIONER (APPEALS-I), PUNJAB CIVIL SECRETARIATE, CHANDIGARH AND ORS
12.	CWP-7149-2000 (O&M)	SHRIMANI PANTH AKALI BUDHA DAL TALWANDI SABO V/S FINANCIAL COMMISSIONER (APPEALS-I), PUNJAB CIVIL SECRETARIAT, CHANDIGARH AND ORS
13.	CWP-7171-2000 (O&M)	SHIROMANI PANTH AKALI BUDHA DAL V/S FINANCIAL COMMISSIONER (APPEALS-I) PUNJAB CIVIL SECRETARIAT, CHANDIGARH AND ORS

CORAM : HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Vijay Sharma, Advocate
for the petitioner.

Mr. G.S. Bhullar, AAG, Punjab.

Mr. Akshay Bhan, Sr. Advocate with
Mr. Santosh Sharma, Advocate and
Mr. Varun Sandhu, Advocate
for the respondent in CWP No.6531 of 2000, CWP No.7123 of 2000, CWP No.6026 of 2000, CWP No.6027 of 2000 and CWP No.6043 of 2000.

Mr. Jai Bhagwan, Advocate with
Mr. Sanjeev Kumar, Advocate
for the private respondents in CWP-2365-1999,
CWP-6043-2000, CWP-7171-2000,
CWP-14872-2001 and CWP-16291-2001.

JAGMOHAN BANSAL, J. (Oral)

1. By this common order, the above-noted petitions are hereby adjudicated as issues involved and prayer sought in all the petitions are common. For the sake of convenience and with the consent of parties, the facts are borrowed from CWP-2365-1999.

2. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order



dated 09.07.1997 (Annexure P-5) whereby Financial Commissioner (Appeals), Punjab has set aside orders passed by Collector & Assistant Collector and held that petitioner is not entitled to recover lease money.

3. The petitioner is a religious body. The dispute between the parties relates to 1076 Kanals and 9 Marlas land situated at Village Dudian, Tehsil Sunam, District Sangrur. The said land is owned by another religious institution namely Mandir Mahadevji. The private respondents (for short 'respondent') are in possession of part of the aforesaid land since 1970. The respondent preferred an application before Assistant Collector 1st Grade, Sunam claiming proprietary rights (for short 'P rights') over the land in question. The said authority vide order dated 12.01.1976 accepted his application. The petitioner as well as aforesaid Mandir preferred appeal before Collector who vide order dated 07.08.1976 set aside order dated 12.01.1976 passed by Assistant Collector. The respondent preferred revision before Financial Commissioner which came to be dismissed vide order dated 21.12.1987. The respondent further unsuccessfully preferred writ petition before this Court.

4. During the possession of aforesaid land with respondent, Mohitmim Mangal Gir executed a lease deed dated 19.12.1975 in favour of petitioner i.e. Shiromani Panth Akali Budha Dal. After dismissal of Civil Writ Petition No.5300 of 1988, the petitioner filed suit for recovery of Rs.4199/- on account of *Batai* (rent) for the crops of Rabi 1986 to Kharif 1988 under Section 77(3)(n) of Punjab Tenancy Act, 1887 (for short '1887 Act'). The said suit came up for consideration before Assistant Collector 1st Grade who vide order dated 30.07.1991 allowed



suit of the petitioner and ordered to respondent to pay *Batai* (rent). The respondent filed appeal before Collector who vide order dated 07.08.1992 dismissed the appeal. The respondent filed suit before Civil Court assailing order dated 07.08.1992 passed by Collector and order dated 30.07.1991 passed by Assistant Collector. The matter came up for consideration before Sub Judge 1st Class, Sunam who vide judgment 02.03.1995 dismissed the suit, however, while adjudicating issue No.7A held that defendants have failed to prove execution of valid lease deed dated 19.12.1975. In this way, though civil suit was dismissed and orders passed by Assistant Collector and Collector were upheld, however, it was held that petitioners herein have failed to prove execution of valid lease deed dated 19.12.1975.

5. The respondent preferred an appeal before Appellate Court which came up for consideration before Additional District Judge, Sangrur who vide order dated 18.01.1996 dismissed appeal of the respondent, however, noticed “The Trial Court has held that respondents-defendants have failed to prove the execution of valid lease deed dated 19.12.1975 between them. The said finding has not been challenged by the respondents-defendants by filing any cross appeal or separate appeal. Thus, the said findings have become final and are binding on the parties to the suit. All rights claimed by respondent-defendant No.2 seem to arise and flow from the said lease deed. But the said lease deed has not been held to have been proved before the Trial Court and finding on issue No.7A has become final between the parties”. The Appellate Court dismissed appeal of the respondent herein.



6. The respondent approached Financial Commissioner seeking setting aside of order dated 30.07.1991 and 09.01.1992 passed by Assistant Collector, Sunam and Collector, Sangrur respectively. The respondent by filing petition before Financial Commissioner opted alternative remedy despite filing suit before Civil Court assailing above orders. The Financial Commissioner by impugned order set aside orders passed by Assistant Collector and Collector. The substance of findings of Financial Commissioner is that petitioner is a tenant and not landlord, thus, it cannot recover rent from another tenant i.e. respondent.

7. The petitioner feeling aggrieved from order dated 09.07.1997 passed by Financial Commissioner (Appeals)-I, Punjab has preferred instant petition.

8. Mr. Vijay Sharma, Advocate submits that respondent preferred suit before Civil Court assailing order dated 30.07.1991 and 07.08.1992 passed by Revenue Authorities and it was dismissed by Civil Court. The findings recorded by Civil Court on the question of validity of orders dated 30.07.1991 and 07.08.1992 have become final. The Financial Commissioner has passed impugned order without considering findings of Civil Court. The respondent in the previous round of litigation claimed proprietary rights and Financial Commissioner while rejecting their petition specifically held that respondent herein has failed to bring on record any material to show that it is a tenant as defined under Section 20 of PEPSU Tenancy and Agricultural Land Act, 1955 (for short 'PEPSU Act'). The application seeking proprietary rights was filed beyond prescribed period of limitation. This order was also not



considered by Financial Commissioner (Appeals) while passing impugned orders.

Learned Additional District Judge, Sangrur while dismissing appeal of respondent herein has wrongly held that decision of Trial Court *qua* question No.7A has become final and binding on the parties. The Appellate Court was duty bound to consider validity of findings recorded by Trial Court though petitioner herein had not filed appeal against order passed by Trial Court. The Financial Commissioner has wrongly relied upon judgment of Supreme Court in '***Tekan and others Vs. Ganeshi***' **1963 (1) SCJ 328**. The said judgment relates to Punjab Land Revenue Act, 1887 whereas present matter relates to Punjab Tenancy Act, 1887.

The petitioner falls within definition of 'landlord' because lease deed was executed for 99 years, thus, it has right to recover rent/crop in terms of Section 14 read with 77 of 1887 Act. It is a settled proposition of law that a lessee has right to recover lease money from sub-lessee. Supreme Court in '***Swadesh Ranjan Sinha Vs. Haradeb Banerjee***' **1991 (4) SCC 572** has held that a lessee of 99 years has right to recover lease money from sub lessee. In the said case, a land was leased out to a society for 99 years which further let out flats to different tenants. In the instant case, the land was leased out to petitioner for 99 years, thus, it has right to recover rent from respondent who is illegally possessing the land. There is no lease deed in his favour. It is unauthorized occupant of the land and his suits claiming adverse possession as well as proprietary rights have already been dismissed, thus, it cannot claim tenancy right over the land in question.



9. Per contra, Mr. Akshay Bhan, Sr. Advocate submits that Trial Court while dismissing suit of respondent has clearly rejected existence of lease deed allegedly executed between petitioner and Mandir. The Appellate Court i.e. Additional District Judge, Sangrur while dismissing appeal of the respondent herein has further noted that findings of Trial Court *qua* existence of lease deed between Mandir Mahadev and Shiromani Panth Akali Budha Dal have become final. The petitioner herein preferred RSA No.712 of 1997 before this Court which as on day stands dismissed on the ground of non-prosecution. The petitioner is claiming that it has filed application seeking restoration of main case, however, till date even said application is not listed before the Bench. Even if for the sake of arguments, it is assumed that respondent is an illegal occupant of land in question still it does not empower petitioner to recover rent especially when respondent is regularly paying rent to Mandir. The petitioner on one hand is claiming that it is landlord and on the other relying upon lease deed which makes it tenant. The application under Section 77(3)(n) read with Section 14 under 1887 Act was not maintainable because petitioner is neither landlord nor owner of the land has sold or transferred to him right to recover rent or arrears.

10. The conceded position emerging from the pleadings and arguments of both sides is that land in question since 1970 is in the possession of respondent. The owner of the land is a Mandir. The Manager of the Mandir executed a lease deed dated 19.12.1975 in favour of the petitioner i.e. Shiromani Panth Akali Budha Dal. The petitioner as well as Mandir are religious institutions. The respondent since 1970 is



paying rent to Mandir. The respondent filed petition before Revenue Authorities claiming P rights. The matter relating to P rights travelled from office of Assistant Collector to this Court and it stands concluded that respondent is not having P rights over land in question. The petitioner initiated proceedings against respondent for realization of *Batai* (rent). The Assistant Collector decided in favour of petitioner and respondent unsuccessfully preferred appeal before Collector. The respondent preferred suit before Civil Court assailing orders passed by Assistant Collector and Collector. The suit came to be dismissed, however, Civil Court returned findings against the petitioner *qua* existence of lease deed dated 19.12.1975. The respondent preferred appeal before District Judge which came to be dismissed by Additional District Judge, Sangrur. The petitioner herein preferred RSA before this Court which was dismissed for non-prosecution. The petitioner has filed an application seeking restoration of main case, however, said application till date is not listed before the Bench. The Financial Commissioner (Appeals) has set aside orders passed by Assistant Collector and Collector. The said authority has held that petitioner has no right to recover rent from the respondent. The petitioner is assailing findings of Financial Commissioner (Appeals).

11. It would be apt to reproduce relevant extracts of order dated 09.07.1997 passed by Financial Commissioner (Appeals), which read as:

“The only crucial document in this case is the registered lease deed dated 22-12-1975, as per which, Mohtmim Mangal Gir of this Mandir, had leased out an area measuring 1076 Kanals 9 Marlas, for a



period of 99 years in favour of the respondent, on the authenticity and validity of which, both the Assistant Collector Ist Grade, Sunam, as well as, the District Collector, Sangrur had based their judgments. Both the Revenue Officers below, took this least deed as a testament, conferring the rights of the ownership, on the lessee- respondent unjustifiably, and, thus declared the respondent as landlord in this case. The conclusion drawn by the Revenue Officers, is illegal and unsustainable. A lease deed, by no stretch of imagination, can confer the rights of ownership or proprietary on the lessee, because the lessee is a tenant only.

5. *Further, it is highly doubtful, as to whether or not, the Mohtmim of this Mandir was competent to execute the registered lease deed dated 22.12.1975, in favour of the respondent for a long period of 99 years, which according to judicial pronouncements is as good as the sale of the property. Thus, the Mohtmim being Manager of Dera, had over-stepped his authority and had executed the untenable lease deed.*

It is an admitted fact, that, the petitioners have been tenants over the land in dispute for a good number of years, and, they were still tenants over the land in dispute, when the Mohtmim had executed the lease deed dated 22.12.1975; in this way, the Mohtmim had created another tenancy over the land in dispute, while the previous tenancy was still in existence. This was not possible under the law, So long, as the tenancy exist a validly, it is not within the competence of the landlord, muchless of a Mohitmim, to create another tenancy. In view of this, the tenancy created vide lease deed dated 22.12.1975, deserves to be



totally ignored. In the light of this, it can be safely concluded, that the registered lease deed dated 22.12.1995, had no significance more than that of a piece of waste paper.

6. *Further, the respondent-Shiromani Panth Akali Budha Dal, on the basis of the registered lease deed dated 22.12.1975, had wrongly assumed itself to be owner and landlord of the disputed land, and had thus filed the suit against the petitioners for the recovery of rent, as arrears of few crops. A theoretical lessee, being a tenant has no right or authority to file a suit for recovery of arrears of rent from the existing tenant or to seek his ouster on the ground of non-payment of rent, As mentioned earlier, the said lease deed does not confer any right of ownership or that of landlordship qua the respondent, over the land in dispute, and as such, their entire claim is based on conjectures and surmises, and has no base or foundation. Thus, it may be concluded, that, the respondent-Shiromani Panth Akali Budha Dal had absolutely no authority to file the suit for the recovery of rent from the petitioners, and in this way, the order dated 30.7.1991., passed by the Assistant Collector Ist Grade, Sunam does not stand the scrutiny of law, and is void, hence set aside, Similarly, the order dated 7.8.1992, passed by the District Collector, Sangrur, rejecting the appeal of the petitioners against the order of the Assistant Collector Ist Grade, Sunam deserves to be quashed being void and totally untenable.”*

12. The petitioner is claiming rent from respondent on the ground that owner of the land has executed 99 years lease deed in its favour. The Financial Commissioner (Appeals) has held that it is highly



doubtful as to whether Mohitmim Mangal Gir of the Mandir was competent to execute registered lease deed for a period of 99 years which is as good as sale of property. A Coordinate Bench of this Court in ***RSA No. 245 of 1996*** titled as '***Dharamvir Singh and another Vs. Murti Mandir Mahadevji Maharaj Sathapit Mandir Mahadevji Maharaj***' has held that in the absence of any specific power, custom or practice, a Manager of the religious institution cannot be permitted to give the property of a religious institution on lease for a period of 99 years. The relevant extract of order dated 07.02.2020 are reproduced as below:

“In absence of any specific power, custom or practice, a Manager of the religious institution cannot be permitted to give the property of a religious institution on lease for a period of 99 years. Lease for a period of 99 years is a permanent alienation of the property and, therefore, such act on the part of the Manager in absence of any custom, practice or specific authorization, shall not be valid.”

In view of decision of Coordinate Bench in ***Dharamvir Singh (supra)***, the findings of Financial Commissioner (Appeals) *qua* power of Mohitmim Mangal Gir of the Mandir to execute lease deed for a period of 99 years are sustainable.

13. The respondent assailing orders passed by Assistant Collector and Collector preferred suit before Civil Court. Learned Sub-Judge 1st Class, Sunam as well as Appellate Court declined to entertain claim of the respondent herein and upheld orders passed by Revenue Authorities, however, recorded findings with respect to legality of lease deed. Learned Sub-Judge 1st Class, Sunam while passing judgment dated



02.03.1995 apart from others, framed a question regarding validity of lease deed. The said question reads as:

“7A. Whether the defendant No.2 executed a valid lease deed in favour of the defendant No.1, If so, whether the defendant No.2 is competent to execute the alleged lease deed in favour of deft. No. 1? OPD ”

14. The Civil Court with respect to said question held that Mandir and Shiromani Panth Akali Budha Dal have failed to prove execution of lease deed dated 19.12.1975 accordingly, issue is answered against them. The findings of Civil Court read as:

“Issue No.7-A:

16. The onus to prove this issue was placed on the defendants, but there is no cogent and convincing evidence led by them. Simply they have produced copy of the lease deed in question as Ex. D-2. No witness of the same has been examined. In absence of such evidence it is held that the defendants have failed to prove the execution of the impugned valid lease deed dt. 19.12.1975. This issue is accordingly decided in favour of the plaintiffs and against the defendants.”

15. The Appellate Court adverted to aforesaid issue and held that respondents-defendants have not challenged findings of Trial Court by filing appeal or cross objection, thus, findings have become final and binding on the parties. The relevant extracts of order dated 18.01.1996 passed by Additional District Judge, Sangrur read as:

“9. It will be appropriate to refer to the judgement of the trial court on issue No. 7-A regarding execution of lease deed in favour of respondent-defendant No.1 by respondent-defendant No. 2. Under the said issue, the



trial court has held that the respondents-defendants have failed to prove the execution of the valid lease deed dated 19.12.1975 between them. The said finding has not been challenged by the respondents-defendants by filing any cross appeal or separate appeal. Thus, the said finding has become final and is binding on the parties to the suit. All rights claimed by respondent-defendant No.2 seem to arise and flow from the said lease deed. But the said lease deed has not been held to have been proved before the trial court and the finding on issue No. 7-A has become final between the parties.

10. In view of my above discussion, the Judgement and decree of the trial court are affirmed and it is held that the appellants-plaintiffs have not become owners of the property in dispute by way of adverse possession. The lease-deed between the respondents- defendants Nos. 1 and 2 dated 19.12.1975 does not stand proved and the status of the appellants- plaintiffs with respondent-defendant No.2 is held to be that of tenant and land-lord. The orders dated 30.7.1991 and 9.1.1992 passed by the Asstt. Collector, Sunam and collector, Sangrur are held to have been passed by Courts of competent jurisdiction. The appeal of the appellants-plaintiffs is accordingly dismissed, with no order as to costs. Decree sheet be prepared accordingly and the file be consigned to the record room.”

16. From the perusal of findings recorded by Civil Court as well as Appellate Court, it is evident that Courts have held that there is no valid lease deed. The petitioner has preferred RSA before this Court which stands dismissed for non-prosecution. The petitioner is claiming



that it has filed application seeking recalling of said order, however, till date said application is not even listed before the Bench. Thus, the findings recorded by Trial Court and Appellate Court can be taken care of. As per findings of Trial Court with respect to validity of lease deed, lease deed itself is not valid and cannot be relied upon. The foundation of claim of petitioner is said lease deed, thus, unless and until findings recorded by Courts below are not set aside, the petitioner is debarred from relying upon said lease deed.

17. The petitioner is relying upon outcome of first round of litigation wherein the respondent had claimed P rights over the land in question. The matter travelled up to this Court. The Revenue Authorities especially Financial Commissioner (Appeals) vide order dated 21.12.1987 held that the respondent herein has failed to bring on record any material to show that it is a tenant as defined under Section 20 of PEPSU Act. The respondent herein as required under Section 20 of PEPSU Act was not in possession of land for a period of 12 years or more under the same owner or its predecessor in the title immediately preceding the commencement of PEPSU Act.

The respondent in the earlier round of litigation claimed P rights over the land in question. The Revenue Authority finally concluded that respondent herein cannot claim P rights. The issue before the authorities was P rights of the respondent. It was claiming P rights and not seeking declaration that it is a tenant. Nevertheless, Financial Commissioner (Appeals) held that respondent herein has failed to bring on record any material to show that it is a tenant as defined under Section



20 of PEPSU Act. The relevant extracts of finding dated 21.12.1987 recorded by Financial Commissioner (Appeals) are reproduced as below:

“The application is incompetent apart from the fact that this tenant does not fall within the definition of the tenant under Chapter IV (Acquisition of proprietary Rights by tenant) as the tenant does not fulfil the conditions laid down in Section 20 of the Pepsu Law. Section 20 of the Pepsu Law requires that a tenant to be eligible should have been on land, continuously for a period of 12 years or more under the same land owner or its predecessor-in-title immediately proceeding the commencement of the President's Act. In this case the petitioner tenant has appended only Khasra Girdawris for the preceding six years from the date of application of purchase of land i.e. for the period Kharif 1970 to Rabi 1975.

4. Whereas the petitioner's appeal has been wrongly dismissed the fact remains that the petitioners were not entitled to file an application for purchase of land after the lapse of one year from the date of the commencement of the Punjab Lands Reforms Act, 1972, apart from the fact that he has failed to bring on record any material to show that he is a tenant as defined in Section 20 of the Pepsu Law. I, therefore, do not find any justification in remanding the case back to the lower revenue authorities as the application after the lapse of one year from the date of the commencement of the Act is incompetent and the petitioner, tenant is not even eligible tenant under Section 20 of the Pepsu Act. The revision petition is accordingly disallowed.”

18. From the perusal of order dated 21.12.1987 passed by



Financial Commissioner (Appeals), it is evident that said authority has held that respondent herein is not tenant in terms of Section 20 of PEPSU Act. The findings recorded by Financial Commissioner in its order dated 21.12.1987 do not come for the rescue of petitioner because said findings at the most declare that respondent was not tenant in terms of Section 20 of PEPSU Act. The question involved herein is of entitlement of petitioner to recover rent from respondent.

19. The petitioner in view of findings recorded by Trial Court and Appellate Court is not possessing valid lease deed. As per order dated 07.02.2020 passed by this Court in ***Dharamvir Singh (supra)***, lease deed was not valid. Nevertheless, for the adjudication of present petition, if it is assumed that petitioner was holding valid lease deed and respondent was in unauthorized possession of the land still the petitioner does not become landlord and cannot recover rent or other dues from the respondent. The petitioner has placed reliance upon judgment of Supreme Court in ***Swadesh Ranjan Sinha (Supra)*** to contend that a lessee can recover rent from sub-lessee. In the said case, a valid lease deed was executed between lessee and owner of the land. A further sub lease was executed between lessee and sub-lessee (tenant). As tenant was permitted to occupy premises on the basis of sub-lease executed by lessee, the Court held that lessee has right to recover rent from the sub-lessee (tenant). The facts herein are entirely different. It is not case of the petitioner that it has authorized respondent to utilize the land in question. The lease deed in favour of petitioner was executed in 1975 whereas respondent is in possession of land since 1970. No document leaving



aside lease deed has been executed between petitioner and respondent. The petitioner is making self-contradictory submissions while claiming himself to be landlord. The petitioner is relying upon lease deed which makes it a tenant and not landlord. The petitioner in the one breath is relying upon lease deed and on the other claiming itself to be landlord. The expressions 'landlord' as well as 'tenant' have been defined under Sections 4(5) and 4(6) of 1887 Act respectively. Section 4(5) and 4(6) of 1887 Act are reproduced as below:

“Section 4(5): "tenant" means a person who holds land under another person, and is, or but for a special contract would be, liable to pay rent for that land to that other person; but it does not include:--

(a) an inferior landowner, or

(b) a mortgagee of the rights of a landowner, or

(c) a person to whom a holding has been transferred, or an estate or holding has been let in farm under the Punjab Land Revenue Act, 1887 (XVII of 1887), for the recovery of an arrear of land- revenue or of a sum recoverable as such an arrear, or

(d) a person who takes from the Government a lease of unoccupied land for the purpose of subletting it:

Section 4(6): "landlord" means a person under whom a tenant holds land, and to whom the tenant is, or but for a special contract would be, liable to pay rent for that land:”

20. The petitioner as claimed by Mr. Vijay Sharma, preferred its claim before Revenue Authority under Section 77(3)(n) of 1887 Act. The relevant extracts of Section 77(3)(n) are reproduced as below:



“(3) *Procedure where revenue matter is raised in a Civil Court:* The following suits shall be instituted in, and heard and determined by, Revenue Courts, and no other Court shall take cognizance of any dispute or matter with respect to which any such suit might be instituted.

Provided that-

(1) *where in a suit cognizable by and instituted in a Civil Court it becomes necessary to decide any matter which can under this sub-section be heard and determined only by a Revenue Court, the Civil Court shall endorse upon the plaint the nature of the matter for decision and the particulars required by Order VII rule 10, Civil Procedure Code (V of 1908), and return the plaint for presentation to the Collector;*

(2) *on the plaint being presented to the Collector, the Collector shall proceed to hear and determine the suit where the value thereof exceeds Rs 1,000 or the matter involved is of the nature mentioned in section 77(3), First Group, of the Punjab Tenancy Act, 1887 (XVI of 1887), and in other cases may send the suit to an Assistant Collector of the first grade for decision.*

FIRST GROUP

xxxx xxxx xxxx xxxx

SECOND GROUP

xxxx xxxx xxxx xxxx

THIRD GROUP

(n) *suits by a landlord for arrears of rent or the money equivalent of rent, or for sums recoverable under section 14 or suits for the recovery of such arrears or sums by any other person to whom a right to recover the same has been sold or otherwise transferred.”*



Mr. Vijay Sharma, Advocate during the course of arguments vehemently pleaded that petitioner falls within the definition of 'landlord' and it had rightly claimed rent in terms of Clause (n) of Section 77(3) of 1887 Act.

21. From the perusal of Clause (n) of Section 77 (3) 1887 Act, it is evident that suit may be filed by **landlord** for arrears of rent or money equivalent of rent or for sums recoverable under Section 14 of 1887 Act. Similarly, 'any other person' may file suit for recovery of arrears or rent to whom a right to recover has been sold or otherwise transferred. It means that either a 'landlord' can file suit for recovery of rent or 'any other person' to whom right to recover has been sold or otherwise transferred.

22. The petitioner is claiming its rights on the basis of lease deed executed in 1975. The said lease deed makes petitioner tenant and not landlord. From the definition of 'landlord', it is evident that a person under whom a tenant holds land is a 'landlord'. The petitioner could hold land under Mandir. The respondent is not holding land under petitioner, thus, claim of petitioner that it falls within definition of landlord is unsustainable. The petitioner at the most falls within definition of 'tenant' because lease deed executed in his favour makes him tenant. The owner of the land by said deed has neither sold nor otherwise transferred to petitioner right to recover rent or the money equivalent of rent or sums recoverable under Section 14 of 1887 Act. The petitioner is a simple tenant. It is neither owner of land nor landlord.

23. The petitioner as well as respondent are tenants of Mandir.



The respondent is regularly paying rent to Mandir. It is in possession of land since 1970. The petitioner never got possession of land, though as per lease deed executed in his favour, land would remain in his possession during the currency of lease deed. It, as per lease deed, has right to use land, however, could not use land because of possession with respondent. The Financial Commissioner (Appeals) has rightly concluded that petitioner is a tenant and it has no right to recover rent or any other amount from the respondent.

24. In the wake of above discussion and findings, this Court does not find any infirmity in the impugned order. The petitions being bereft of merit deserve to be dismissed and accordingly dismissed.

25. Pending misc. application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

22.10.2024
Ali

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