

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

RSA-278-1999 (O&M)

Reserved on: 18.03.2024

Date of decision:18.04.2024

Gurnam Singh and others

....Appellants

Versus

Surinder Mohan (deceased) through LR's and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Sandeep Jain, Advocate and
Mr. Sachin Jain, Advocate for the appellants

Mr.Anish Sethia, Advocate for respondent no.1

Mr. Madhur Panwar, Advocate for
Mr. Aman Pal, Advocate for respondent no.2

ANIL KSHETARPAL, J

1. In this Regular Second Appeal, the defendants (lessees) challenged the correctness of the concurrent findings of the courts below while decreeing the plaintiff's suit for possession by way of ejectment with respect to 30 kanals 16 marlas of land. The entire case of the plaintiffs is based upon the fact that the defendant, after having denied the tenancy, can claim ouster of civil court's jurisdiction on the ground that they are liable to be ejected only in accordance with the provisions of the Punjab Tenancy Act, 1887 (hereinafter referred to as '1887 Act') read with the provisions of the Punjab Security of Land Tenure Act, 1953 (hereinafter referred to as '1953 Act').

2. While admitting the appeal, the court culled out the following substantial questions of law:-

“1. Whether the jurisdiction of Civil Courts is barred under Section 77 of Punjab Tenancy Act?

2. Whether the suit is maintainable in the absence of notice under Section 106 of the Transfer of Property Act?”

3. Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

4. On 05.02.2024, after hearing the learned counsel representing the parties at some length, they were requested to assist the Court on the following questions:-

“a) Whether tenancy of the agricultural land stands forfeited on denial of relationship by the tenant?

b) Is it permissible for the owner/landlord to file a suit for possession by way of ejectment without making out a case for eviction of the tenant under the Punjab Tenancy Act, 1887 read with the Punjab Security of Land Tenures Act, 1953?”

5. On the one hand, the learned counsel representing the appellants relies upon a larger Bench’s judgment in **Shyam Lal vs. Deepa Dass Ram Chela Garib Dass 2016 AIR (SC) 3243** whereas the learned counsel representing respondent no.1 relies upon **Assa Singh (dead) by LRs vs. Shanti Parshad (dead) by LRs and others (2021) 19 SCC 290**.

6. In this case, Swaran Singh son of Mangal Singh, the son of original defendant stopped paying the lease money to the landlords forcing them to file petitions under the 1953 Act, which was decreed. Thereafter, in continuation of the aforesaid series of litigation, the plaintiffs filed recovery suit under the 1953 Act for recovery of rent from the agricultural crop kharraf 1987 to Rabi 1990 in which on 18.01.1991 Swaran Singh filed the written statement, in which he denied the

relationship of landlord and tenant between him and the plaintiffs. Thus, the plaintiffs were forced to file the suit on 08.11.1991 for possession. In this litigation, legal representatives of Swaran Singh claimed themselves to be tenants.

7. On appreciation of evidence, both the courts below decreed the plaintiff's suit for the grant of possession on the ground that the tenancy has been repudiated by Swaran Singh tenant while relying upon a Division Bench judgment in 1970 PLR 223.

8. On the one hand, as already noticed, the learned counsel representing the appellants relies upon Shyam Lal's case (supra). This Court has carefully read the aforesaid judgment. In this judgment, it has been held that after expiry of fixed period of tenancy, the landlord has no right to file a civil suit for possession as the lessee get protection under the provisions of 1887 Act read with 1953 Act. In this case, the Supreme Court was not dealing with a situation where lessee has denied the relationship between him and the landlord. Hence, the aforesaid judgment is not applicable. On the other hand, in **Assa's Singh case** (supra), the Supreme Court was dealing with exactly the same situation. It was held that the jurisdiction of the civil court is not ousted if a landlord tenant relationship is disputed. By an elaborate judgment, the Supreme Court discussed all aspects of the matter and answered the following questions:-

*“Whether despite exclusive jurisdiction conferred on
Revenue Court, to even order eviction of tenant, civil court*

will not have jurisdiction in case where there is dispute relating to landlord-tenant relationship?

The Supreme Court ultimately held that the jurisdiction of the civil court is not barred.

9. Furthermore, the appellants have no equity in their favour as their predecessor denied the landlord-tenant relationship. Now, they are estopped from claiming that they are entitled to protection under the 1887 Act.

10. Keeping in view the aforesaid facts, no ground to interfere is made out.

11. Hence, dismissed.

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

18 .04.2024
rekha
Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No

(ANIL KSHETARPAL)
JUDGE