

2025:PHHC:048996



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

CWP-411-2017

Date of Decision: 09.04.2025

Charan Singh and others

..... Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Vikram Singh, Advocate
for the petitioners.

Mr. Rajneesh Chadwal, AAG, Haryana.

Mr. Kulbhushan Sharma, Advocate
for respondents No.5 to 7.

HARSH BUNGER J.

Petitioners have filed the instant writ petition, *inter alia*, seeking a writ in the nature of Certiorari to set aside order dated 24.12.2012 (Annexure P-3) passed by the learned Assistant Collector, Ist Grade, Palwal; order dated 04.06.2013 (Annexure P-5) passed by the learned District Collector, Palwal; order dated 15.04.2014 (Annexure P-6) passed by the learned Commissioner, Gurgaon Division; and order dated 16.12.2016 (Annexure P-7) passed by the learned Financial Commissioner, Haryana.

2. Briefly, respondents No.5 to 7 herein filed an application under Section 14 (A) of the Punjab Security Land Tenures Act, 1953 (in short 'the 1953 Act') under form 'L', seeking eviction of the present petitioners from the land in question, on the grounds that they have not paid the rent for the years 2007-10 without any reason and they have also refused to execute a *Kabuliatnama*.

2.1 Petitioners herein appeared in the aforesaid eviction proceedings and submitted their reply, *inter alia*, on the ground that no notice under Form 'L' has been issued to them. It was further stated by the petitioners that they had already submitted an application under Section 14-A (III) of the 1953 Act, dated 15.09.2009, before the Assistant Collector, Ist Grade, Palwal, for deposit of the rent.

2.2 The learned Assistant Collector, Ist Grade, Palwal, upon consideration of the matter, passed eviction order dated 24.12.2012 (Annexure P-3) against the petitioners, on account of the non-payment of rent.

2.3 Feeling aggrieved against the aforesaid eviction order dated 24.12.2012 (Annexure P-3), the petitioners preferred an appeal before the learned Collector, Palwal, however, the same was also dismissed vide order dated 04.06.2013 (Annexure P-5). A further revision petition filed before the learned Divisional Commissioner, Gurgaon, also met the same fate vide order dated 15.04.2014 (Annexure P-6).

2.4 Thereafter, petitioners filed a revision petition (ROR No.421 of 2013-14) before the learned Financial Commissioner, Haryana, which was also dismissed vide order dated 16.12.2016 (Annexure P-7).

3. In the aforementioned circumstances, petitioners have filed the present writ petition before this Court, seeking relief(s) as noticed hereinabove.

4. Learned counsel for the petitioners submits that the authorities below have erred in law and fact in passing the impugned order(s). It is submitted that no notice under Form 'N' was issued to the petitioners, therefore, the entire eviction proceedings stand vitiated. It is submitted that petitioners had already filed an application dated 15.09.2009, under Section 14-A (III) of the 1953 Act, for depositing of the rent as the landlords had failed to accept the same from the petitioners; however, the learned Assistant Collector, Ist Grade, Palwal, without considering the aforesaid stand taken by the petitioners, had wrongly passed eviction order dated 24.12.2012 (Annexure P-3) against them; which has further been upheld by the appellate and revisional authorities.

4.1 With the aforesaid submissions, learned counsel for the petitioners has prayed for setting aside the impugned order(s).

5. Per contra, learned counsel for respondents No.5 to 7 has opposed the aforesaid submissions made by learned counsel for the petitioners by submitting that the Assistant Collector, Ist Grade, Palwal had duly issued notice under Form 'N' upon the petitioners, whereby they had appeared and submitted their reply, *inter alia*, disputing the relationship of landlord and tenant between the parties. It is further submitted that petitioners had not only failed to pay the rent in furtherance of the notice under Form 'N', rather, when the learned Assistant Collector had got the *Jhar Paidawar* prepared in respect of the land in question, which was placed on file on 28.09.2012 and 12.10.2012, and petitioners were afforded another

opportunity for tendering rent up to 30.10.2012; however, they failed to deposit the rent. It is contended that even thereafter, three more opportunities were granted to the petitioners to pay the rent, however, they failed to do so, and consequently, eviction order dated 24.12.2012 (Annexure P-3) was passed against them. It is submitted that all the authorities below have held against the petitioners and it has been established on record that the petitioners have failed to deposit the rent; accordingly, they have rightly been ordered to be evicted from the land in question.

5.1 With the aforesaid submissions, prayer for dismissal of the instant writ petition has been made.

6. Heard.

7. Here, it would be apposite to refer to a few judicial pronouncements.

7.1 In “*Gurmej Singh v. Financial Commissioner*”, 1980 PLJ 603; an Hon'ble Full Bench of this Court was dealing with a writ petition against an order passed by the Financial Commissioner holding that the order of ejectment could not be passed without affording fresh opportunity to the tenants to make the payment of arrears of rent as the entire rent demanded by the landlord was not due though arrears of rent for some harvests were payable. The legality of the order passed by Financial Commissioner was strenuously challenged, inter-alia, on the following ground(s):-

(i) *that if in pursuance of a notice under Form 'N' as prescribed in pursuance of an application under Section 14-A(ii) of the 1953 Act, by the landlord, arrears of rent are not paid by the tenants within one month from the date of the notice, the order of ejectment has to be passed by the Assistant Collector, who has no jurisdiction to give further opportunity*

for deposit of the arrears of rent. It was also urged that not only the Assistant Collector, Revenue, concerned even the higher authorities in appeal or revision have no jurisdiction to extend the statutory period as prescribed for payment of arrears of rent.

(ii) that in case the demand of the landlord regarding the arrears of rent is objected to by the tenant as being excessive, it is the duty of the tenant to pay the part of the arrears of rent which may be admitted by him to be due and it is not open to him to withhold the payment even a part of rent so admitted only on the ground of excess demand having been made by the landlord.

(iii) that any payment by the tenant after the expiry of the statutory period as prescribed in the notice cannot save the tenant from ejectment.

7.2 Hon'ble Full Bench of this court in **Gurmej Singh (supra)**, held as under:-

“27. The upshot of the above discussion is that the effect of the combined reading of section 14-A(ii) of the Act, Rule 22 of the Form 'N' prescribed therein is that the period of one month as prescribed in the said notice of demand as issued by the Assistant Collector, II Grade, during which the arrears of rent can be paid by the tenant, is statutory and no jurisdiction is vested in the Assistant Collector, II Grade, before whom the application for demand is made in the first instance, the appellate Authority, or the Revising Authority, as the case may be, to extend this statutory period under any circumstances, whether objection raised by the tenant in reply to the demand notice relates to the non-liability to pay the arrears in whole or in part. In view of this conclusion, there is no escape from holding that the decision in Balwant Singh's case (supra) that in case the demand of the landlord in the notice of demand was challenged by the tenant as being excessive, it was not obligatory on the tenant to make the payment of even a part of

the demand about which he did not raise any dispute and that the Assistant Collector, II Grade has to grant a fresh opportunity to make payment after the final decision regarding the objection of the tenant, was not correct and is set aside. Similarly, in the ratio of decision in Smt. Sham Kaur's case (supra) correct law was not laid down in holding, though indirectly, that the Assistant Collector, II Grade, had jurisdiction to extend time for payment of arrears of rent by the tenant though the period as prescribed in the notice of demand under Form 'N' has already expired.

28. In view of the above conclusion regarding the scope and ambit of section 14-A(ii) of the Act, it is held that the order of eviction by the Collector, dated 15th February, 1971 (Annexure F) without providing any fresh opportunity to the tenant to make payment of the arrears of rent as found due did not suffer from any infirmity...

7.3 Further, in **“Raj Kanta v. Financial Commissioner, Punjab”s, 1980 PLJ 346**; Hon'ble Supreme Court held as under:-

“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 section 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 section 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 section 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 section 9(1)(ii).*

10. We might add at the risk of repetition that the use of the words 'without sufficient cause' clearly indicates that the intention of the legislature was that in order to escape ejectment, the tenant must at least be regular in payment of the rent and if he wants to get rid of the consequences of his default, he must prove sufficient cause. If, however, we construe the word 'regularly' as meaning at regular intervals so as to include a single default, then the term 'without sufficient cause' becomes absolutely redundant. For instance, even if a single default in the payment of the rent is committed by the tenant, his case could be taken out of the ambit of clause (ii) of

section 9(1) without insisting on the tenant to prove sufficient cause for this single default. That would, therefore, make the words 'sufficient cause' meaningless in such cases. It is well settled that the legislature does not waste words and every word that is used by it must be presumed to have some significance. The function of the Court, says Sir Francis Bacon, is "jus decere and not jus dare" (to interpret the law and not to make the law). The Court cannot, therefore, in order to promote its social philosophy turn and twist the plain and unambiguous language of the law so as to ascribe to it a meaning different from the one intended by the legislature. We are constrained to observe, with due respect, that this is what the High Court seems to have done in this case by adopting a puerile and pedantic process of reasoning. In these circumstances, reading the entire sentence, the cumulative effect thereof unmistakably is that the Act includes even a single default and that is why instead of using the word 'default' the word 'regularly' has been employed which is immediately followed by the words 'without sufficient cause'. Moreover, we might mention that in the various Rent Acts passed in the States, ejectment is permissible in some cases where there is a single default, in other cases where there is more than one default and so on. If the legislature intended that a single default would not entitle a landlord to eject the tenant under the Act, then it would have said so expressly either by way of an explanation or otherwise in clause (ii) of section 9(1) of the Act. Finally, we cannot lose sight of the explanation used for the various clauses of section 9(1) which runs thus :

"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 of decree or order, directing him to pay such arrears of rent."

11. While the explanation takes care to define as to when a

tenant would be deemed to be in arrears and fixes a period of two months, indeed if the intention of the legislature was that a single default in payment of rent could be condoned, it should have included this incident also in the explanation. This provides, therefore, the most important intrinsic circumstance to support the interpretation which we have put on clause (ii) of section 9(1) of the Act and which invalidates the reasons given by the High Court.

12. For the reasons given above, we are satisfied that the High Court took an erroneous view of law in interpreting clause (ii) of section 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..."

7.4 Following the aforesaid judgment in Raj Kant's case, a Division Bench of this Court in **"Surinder Singh v. Financial Commissioner", Punjab, 2000(4) RCR (Civil) 629**, held as under:-

"8. Equally lacking in merit is the contention that the petitioner had been paying rent and that the order of eviction could not have been passed for a single default. The authorities below have found that the petitioner had been committing repeated defaults. Reference in this regard may be made to the order of the Assistant Collector, referred to earlier. It has been found that vide order dated October 12, 1982 "the respondents (including the present petitioner) were ordered to make payment of rent of Rs. 1467.67. Similarly the rent for the crops Kharif 1976 to Rabi 1978 was ordered to be paid by the A.C. Ist Grade vide his orders dated 27.1.1982.Similarly the rent for the crops Kharif 1979 to Kharif 1981 was recovered.....according to orders dated 29.7.1983..... a copy of which is Ex.A-5." It is, thus, clear that there were continuous defaults. The petitioner had failed to pay rent regularly. The plea of single default is wholly untenable. Still

*further, even if it is assumed that there was a solitary default, the law does not condone it without sufficient cause being shown. Reference in this behalf may be made to the judgment of their Lordships of the Supreme Court in **Raj Kanta v. Financial Commissioner, Punjab and others, 1980 P.L.J. 346**. It was held by their Lordships that "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 Section 9(1)(ii)." Thus, even a single default cannot be condoned without a sufficient cause being established. In the present case there have been series of defaults without any cause..."*

8. Now coming to case in hand; the petitioners have challenged eviction order dated 24.12.2012 (Annexure P-3), primarily on two grounds. Firstly, that no notice under Form 'N' was issued to the petitioners and secondly, that the petitioners had submitted application under Section 14-A (III) of the 1953 Act, dated 15.09.2009, for depositing of the rent, as respondents No.5 to 7 had failed to accept the rent from the petitioners.

8.1 I have considered both the aforesaid submissions of the petitioners, however, I do not find any merit in the same. As regards the plea taken by petitioners that no notice under Form 'N' was served upon them, it is noticeable that the petitioners have clearly admitted receipt of notice in Form 'N' in their reply, wherein following stand has been taken:-

"4. That the aforesaid suit is of summary nature under which giving of notice of Form N is not necessary which can only be given in regular suit under Section 77 in a suit for eviction and claiming of rent which is issued by Assistant Collector, IInd Grade, as the provision in the Act in which 30 days time is given and in this case neither Assistant Collector, Ist Grade was authorized to give notice under Form N nor it was received by respondents and they never refused to take it and

on which refusal it shown wrongly be colluding with process server and the signature of Charan Singh on Form N are also forged which has not been signed by him. And Form N is also defective in which there is no reference of crop and the year. By only writing that balance of previous three years is pending it is not proved that it is not written in Form L. When respondents have already deposited rent till the year 2007 and after that the proceedings of rent is pending before Assistant Collector, IInd Grade, Palwal in which next date of 21.07.2011 is fixed which itself makes it very clear that the intention of the tenant was always to pay the rent.

- x - x - x - x -

6. In this case rent of three years about Rs.32,000/- is very high that is double and the respondent is not liable to pay it as is shown in notice of Form N this amount is shown pending from 2008 to 2011 therefore also this suit is liable to be dismissed.”

8.2 Further, a categoric finding regarding issuance of notice in Form ‘N’, has been returned by the learned District Collector, Palwal vide order dated 04.06.2013 (Annexure P-5); relevant extract of which, reads as under:-

“After hearing the argument of learned counsels for both the parties and perusal of documents available on main file of lower court I came to the conclusion that the notice under Form-N have also been issued to the appellants. The same are available on the lower court file. The Jhar Pedawar has been got prepared as per rule and after getting the Jhar Pedawar prepared the sufficient time has been granted to the appellant to pay the rent as it is clear from the proceedings dated 12.10.2012 of Lower Court. It is true that the rent has not been paid by the tenants till today and nor they have produced any receipt of payment of rent. So the appellants are defaulting tenants and they have not tried to pay the rent. It is sufficient ground for ejectment and it secure the rights of land owner as

it is mentioned in different rulings of the Hon'ble High Court. While keeping in view all these facts and agreeing with the rulings given by the counsel for the respondents I came to the conclusion that the order passed by court below is correct and no force seems in the appeal of the appellants. The appeal of the appellants is being dismissed."

8.3 A perusal of the above extracted findings would clearly show that notice under Form 'N' was duly issued to the petitioners, however, they failed to tender the rent in pursuance thereof. It further appears that after getting *Jhar paidawar* from the Tehsildar, Palwal; petitioners, vide order dated 12.10.2012, were asked to deposit the rent up to 30.10.2012, and even thereafter, three more opportunities were afforded to the petitioners, but they failed to pay the rent.

8.4 As regards the plea of petitioners that they had already submitted an application under Section 14-A (III) of the 1953 Act, it is observed that the tenants are required to deposit the rent regularly. In the instant case, petitioners had sought recovery of rent for the period 2007-10. Petitioners have not referred to any material on record to indicate that any application under Section 14-A (III) of the 1953 Act was filed by them in respect of the years 2007-08 and 2008-09; and reliance has only been placed upon application dated 15.09.2009, from which, it can easily be deciphered that petitioners had not been paying the rent regularly.

9. Considering the totality of circumstances of the instant case in the light of authoritative judicial pronouncements, as referred above, it is apparent that petitioners have failed to pay the rent to respondents No.5 to 7 regularly, nor they paid the arrears of rent within the statutory period envisaged under Form 'N', which is mandatory. Therefore, the petitioners have rightly been evicted from the land in question.

10. Resultantly, the present writ petition fails and the same is accordingly dismissed, being bereft of any merit.

11. All pending application(s), if any, shall also stand closed.

09.04.2025

Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No