



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

237

LPA-1417-2016 (O&M)  
Date of decision: 28.10.2025

Kishan Chand

...Appellant

Versus

Financial Commissioner Punjab and Others

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI  
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Arun Bansal, Advocate, with  
Mr. Sandeep Bansal, Advocate, &  
Mr. Anubhav Bansal, Advocate, for the appellant.

Mr. Rahul Rampal, Addl. A. G., Punjab.

Mr. H. S. Saggu, Advocate, for the respondents No.2 to 8.

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**HARSIMRAN SINGH SETHI, J. (Oral)**

1. In the present appeal, the challenge is to the order dated 23.05.2016 passed in CWP-10638-2013 by the learned Single Judge, by which the orders dated 25.01.2013, 13.07.2007, 05.09.2006 and 31.05.2005 passed by the Revenue Authorities directing eviction of the appellant herein, from the land in question due to non-payment of the rent, admissible to the respondent, has been upheld.

2. Learned counsel appearing on behalf of the appellant has argued that though, the appellant conceded before the authority concerned that he has not paid the rent admissible to respondent for the period Kharif 1994 to Rabi 1997 but still, a notice in Form 'N' should have been issued to the appellant herein as per the provisions of Punjab Security of Land



Tenures Act, 1953 (hereinafter referred to as ‘1953 Act’) which notice was never issued. Learned counsel for the appellant further submits that even under the Punjab Tenancy Act, 1887 (hereinafter referred to as ‘1887 Act’) which act has been used by Assistant Collector Grade-I for purpose of adjudication of present issue, the payment of rent becomes due only after passing of any such order and it is a conceded fact that the appellant had paid the amount that was payable by him.

3. Learned counsel appearing on behalf of respondents submits that the appellant, as is his right, had only moved an application stipulating therein the appellant is the tenant on respondent’s land and being a tenant he is still not paying the rent for the use of respondent’s land against which suitable action should be taken so as to evict him from possession of land in question and it was upon the authority concerned as to which relevant provisions of which law are to be applied for passing of an appropriate order and under the 1887 Act, under provisions of which act, no notice for payment was required to be passed to a defaulting tenant and hence, the claim of the appellant that action should be taken against appellant under 1953 Act and not “1887 Act” so as to serve the notice for default of payment does not arise in the present case.

4. Learned counsel for the respondents further submits that new fact has been brought on record that even after the passing of the order by the revenue authorities directing the eviction of the appellant from the land in question in the year 2005, no arrears of rent due to respondent were paid up to the year 2017 when the present LPA was filed, which fact is clear



from the order passed by the Division Bench dated 07.02.2017, whereby, the appellant undertook to deposit the rent payable by him. Learned counsel for the respondents further submits that even after passing of the order by revenue authorities in the year 2005, directing eviction of the appellant from the land owned by the respondents, not even a single penny was paid to respondent as rent and no evidence has been brought on record by the appellant even before the learned Single Judge or even before the present appeal to show that any such payment was made for purpose of paying rent for the period starting from 1994 to 1997. Learned counsel for the respondents further submits that even as of now, no rent is being paid by the appellant though the land in question is still being enjoyed by him.

5. We have heard learned counsel for the parties and have gone through the records with their able assistance.

6. Learned counsel for the appellant has not been able to dispute the fact that the application which was submitted to relevant authorities by the respondents for eviction of respondent from land in question, after filing of which application, order dated 31.05.2005 had been passed by the authorities directing the appellant's eviction from land in question. In the said order, where the heading of the suit is placed, it has not been mentioned that whether the same has been filed under the 1953 Act or under the 1887 Act. Hence, it was the duty of the revenue authorities to apply the relevant provision of law to grant the relief to the respondents, in case allegation of non-payment of rent is proved. Further, it had been conceded before the authorities concerned that the appellant is to pay the



arrears of rent. Once, he was due for payment of arrears of rent, the same has to be taken as statement on behalf of the appellant that the appellant is a defaulter in payment of rent, which has rightly been taken into consideration by the authorities concerned so as to pass an order of eviction.

7. It shall be noted that the only purpose of serving a notice in Form 'N' as per 1953 Act is to ascertain that whether the assertion of the owner of the land qua the non-payment of rent is correct or not. Once the purpose for which notice is served has been fulfilled as the fact of the non-payment of rent has already been conceded by the appellant which fact is even conceded before this Court also, hence, keeping in view the said facts and circumstances passing of an order of eviction by the authorities concerned cannot be treated as arbitrary or illegal in the peculiar facts and circumstances of the present case.

8. Further as per the Division Bench judgment of this Court in **CWP-19562-1998 titled Manohar and others Vs. Financial Commissioner, Haryana and others**, the same question has been considered and the relevant finding has been stipulated in para-8 of said judgment, a perusal of which clearly shows that no notice is required to be made to tenant where he is considered to be in default of paying the rent. Further argument raised by the learned counsel that as per the provisions of the 1953 Act, the payment of rent is to be made only after an order directing the same has been passed by the competent authority, it may be noticed that such an order was passed in the year 2005 which was even



challenged by the appellant. Not even a single document has been brought on record in the writ petition or even before this Court which could show that upon the passing of the order of eviction in 2005, the rent was cleared immediately by the appellant to claim the benefit of possession of the land in question. Learned counsel for the appellant has not been able to show any such document to prove that even after the passing of the order by the revenue authorities of eviction of the appellant, any rent was paid immediately to sustain the possession. In the absence of any such fact, it becomes immaterial as to which Act is applied, i.e. 1953 Act or 1887 Act, and the eviction order passed by the authorities in the year 2005 is within the parameters of the law keeping in view the fact that it has been conceded by the appellant before all the authorities including this Court that the appellant was in arrears of rent. Further, learned counsel for the appellant conceded the fact that in case, the order is passed under the 1887 Act, there is need of issuing a notice in Form 'N'. Once, the said fact is conceded and as per law, the respondents were eligible to invoke the jurisdiction to get the appellant evicted either under the 1953 Act or 1887 Act, whereby tenant is not deprived of any benefit under the 1953 Act, the learned Single Judge holding that the eviction is in consonance with law, needs no interference especially when, it is a conceded position that despite having possession of the land, the appellant failed to deposit the rent either before filing of application for eviction by the respondent or even after the order dated 31.05.2005 passed by the revenue authorities directing eviction, no ground is made to the interference in the impugned order.



9. The learned counsel for the appellant argues that the order of eviction which has been passed by the authorities concerned has been passed as per the provision of 1887 Act which is not permissible as, the said order upon an application filed by respondent could have only been passed under the 1953 Act. Learned counsel for the appellant at cost of repetition again submits that under the said 1953 Act, a notice was required to be issued to the tenant before ordering eviction, which notice was not issued and therefore, the order of eviction passed by the authorities is bad which fact has not been appreciated by the revenue authorities in appeal as well as by the learned Single Judge. The learned counsel for the appellant further submits that the learned Single Judge has mentioned in the order that the Assistant Collector Ist Grade, has chosen the lengthy procedure under the 1887 Act instead of 1953 Act, which mentioning goes in favour of the appellant as, under 1887 Act, there is no jurisdiction to get the eviction on the non-payment of rent and therefore, the order passed by the authorities as well as by the learned Single Judge are liable to be set aside.

10. With regard to the said contention, it may be noticed that nowhere in the order dated 31.05.2005 passed by the authorities directing the eviction of the appellant has been mentioned that the same is being passed under the 1887 Act. The said orders of revenue authorities have been passed on the ground of non-payment of rent by tenant, i.e. the appellant, which fact was conceded by the appellant before the authorities concerned. On being asked, to point out any such averments in the orders passed by the authorities which shows that the order of eviction was passed under 1887



Act, learned counsel for the appellant has not been able to show any such finding recorded by the authorities concerned in the said order. Rather, it may be noticed that it was the appellant, who was projecting before the authorities that the orders of eviction have been passed under the 1887 Act which assertion was not accepted by the authorities while dealing with the appeal filed by the appellant, which appeal was preferred against the order of eviction. Therefore, it is incorrect on the part of the appellant to contend that the authorities had passed an order under 1887 Act rather than 1953 Act.

11. Further, with regard to the non-furnishing of the notice in Form 'N' before passing an order of eviction which is a requirement under 1953 Act, it may be noticed that in the proceedings which were initiated, the appellant associated himself and conceded before the authorities that he is in arrears of rent. Once the said fact was conceded, merely on the ground that notice in Form-N was not given will not challenge the position. The notice under Form-N is issued so as to ascertain the veracity of such claim so as to take into consideration version of the tenant that whether he/she is in arrears of rent as being claimed by the owner or not and to afford an opportunity to the tenant to pay/deposit the arrears of rent within 30 days. Once, the tenant himself conceded before the authorities that he is in arrears of rent and despite the admission failed to deposit the rent, even thereafter, passing an order of eviction on the basis of the said statement of fact and which is permissible under 1953 Act, is a perfectly valid order. Moreover,



the appellant has failed to show as to what prejudice has been caused to him, on account of the above.

12. With regard to the contention of the appellant that learned Single Judge has mentioned that the order dated 31.05.2005 directing eviction was passed by the authorities under 1887 Act, the same is not correct. The observation of the learned Single Judge are as under:

*“In the present case, the Assistant Collector-Ist Grade had chosen the lengthy procedure of a suit under Section 77 of the Punjab Tenancy Act, 1887 instead of a comparatively easier and summary procedure as envisaged under the provisions of the 1953 Act. By this procedure, the petitioner and proforma respondents have not been prejudiced whatsoever. Rather, the petitioner had a better opportunity to prove his case.”*

13. It may be noticed that the said assertions of the appellant are not supported by the actual facts on record. Rather, the learned Single Judge is also of the view that 1953 Act should have been applied for the purpose of eviction of the appellant from land in question and as a matter of fact, 1953 Act has been applied for said purpose as, serving of notice in Form N, as being agitated by the appellant is only provided under 1953 Act and not under 1887 Act.

14. Further, a similar issue came up for consideration before the Division Bench in **CWP-19562-1998 titled Manohar and others Vs. Financial Commissioner, Haryana and others**, wherein this Court has held that once it was in the knowledge of the tenant that he has to pay rent



and is also arrears of the amount to be paid, the purpose of sending 'Notice' gets defeated. The relevant para No.8 is reproduced hereunder:

*"As for the second submission, it may only be noticed that the petitioners had admitted their liability before the Collector. They were aware of the amount. They had to make the payment. In such a situation, the question of issuing any notice in any Form to the petitioners did not arise. Since they had failed to comply with the terms of the compromise as recorded by the Collector, they were liable to be evicted. The Commissioner and the Financial Commissioner have only upheld the order based on the undertaking given by the petitioners. The formality of issuing a notice in a particular Form has to be followed in the cases where the summary procedure is followed. Not in the cases like the present."*

15. Hence, the law is squarely covered in favour of the respondents on the issue keeping in view the facts and circumstances of the present case. With regard to the citing of the judgment in **CWP No.1429 of 1979 decided on 29.08.1986 titled Shri Chand (deceased) represented by his LRs Vs. State of Haryana and others**, the same is not of any help to the appellant as, the only issue decided was whether eviction on the basis of non-payment of rent can be ordered under 1887 Act or for that purpose 1953 Act is to be made applicable, which judgment is not applicable in the facts and circumstances of the present case.

16. Keeping in view the above, especially when, even as of now, the appellant is in arrears of rent and has not been paying so, despite



enjoying the possession of the land, no ground is made out to interfere in the order of learned single judge dated 23.05.2016 passed in CWP-10638-2013 and hence, the present Intra court Appeal is dismissed.

(HARSIMRAN SINGH SETHI)  
JUDGE

October 28, 2025  
*anil*

(VIKAS SURI)  
JUDGE

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