

APPELLATE CIVIL.  
*Before Khosla and Dulat JJ.*  
 BAKHSHISH SINGH,—Petitioner.  
*versus*

KARTAR SINGH.—Respondent.

Civil Reference No. 16 of 1955.

*Punjab Tenancy Act (XVI of 1887)—Section 77(3)(k)—Owner of land joining a person in cultivation—Such person, whether a co-sharer—Suit by him for recovery of his share of the produce—Whether exclusively cognizable by a Revenue Court.*

1956

May, 11th.

Held, that a person who cultivates land in partnership with the owner of the land on condition of receiving a share of the produce is co-sharer in the holding within the meaning of section 77(3)(k) of the Punjab Tenancy Act, and his suit for recovery of his share of the produce lies in the Revenue Court.

Reference made by Shri Dalip Singh, Sub-Judge, II Class, Jagraon, under Section 99 of the Punjab Tenancy Act, and forwarded by Shri Pitam Singh Jain, District Judge, Ludhiana,—vide his Endorsement No. 2161-G, dated the 8th July, 1955 for a final decision on the question of jurisdiction.

H. L. SIBAL and K. S. THAPAR. for Petitioner.

K. L. JAGGA, for Respondent.

JUDGMENT

DULAT, J. The only question in each of these cases is whether a person, who cultivates land in partnership with the owner of the land on condition of receiving a share of the produce, is a co-sharer in the holding within the meaning of Section 77(3)(k) of the Punjab Tenancy Act.

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The plaintiff in each of these cases joined the defendant to cultivate the defendant's land and

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the agreement was that the defendant would pay the plaintiff a fixed share of the produce. The suit in each case was brought on the allegation that the defendant had not made payment according to the agreement and the question arose in each case whether the suit was cognizable by the Revenue Court alone or by the Civil Court. The answer, as already indicated, depends on whether the plaintiff is to be called a co-sharer in the holding, for if he is then the suit would undoubtedly lie in the Revenue Court alone as a suit by a co-sharer, in a holding for a share of the profits thereof. The only decided case directly bearing on this question is *Sunder Singh v. Kesar Singh*, (1), where Rattigan, J., took the view that such a suit was a suit by a co-sharer in the holding and, therefore, cognizable by a Revenue Court alone and although when one of the present cases came before me in the first instance I was doubtful if that view was correct, I now find that it has stood for such a long time, that nothing is to be gained by disturbing it. There is no decision to the contrary and the reasoning adopted by Rattigan, J. can be supported on the language employed in the Punjab Land Revenue Act from which most of the definitions have been borrowed for the Punjab Tenancy Act. It is also clear that suits of the nature like the present case be quite conveniently tried in the Revenue Court. I would, in the circumstances, hold that each of the present suits lies in the Revenue Court under section 77 (3) (k) of the Punjab Tenancy Act and the suits must, therefore, be presented in the Revenue Court. The parties are, however, in the circumstances, left to bear their own costs.

KHOSLA, J. I agree.

Khosla, J.