

# The Indian Law Reports

ORIGINAL CRIMINAL

*Before J. S. Bedi and Gurdev Singh, JJ.*

CHHOTTA SINGH AND OTHERS,—*Petitioners*

*versus*

PRITAM SINGH AND OTHERS,—*Respondents*

**Criminal Original No. 96 of 1966**

March 22, 1967

*Contempt of Courts Act (XXXII of 1952)—S. 3—Pepsu Tenancy and Agricultural Lands Act (XIII of 1955)—S. 43—Financial Commissioner acting under—Whether a 'Court'—Such Court—Whether subordinate to High Court for purposes of contempt proceedings.*

*Held*, that the word "Court" used in the Contempt of Courts Act is not confined to ordinary Civil Criminal or Revenue Courts. The Financial Commissioner acting under the provisions of section 43 of the Pepsu Tenancy and Agricultural Lands Act, 1955, is a Court subordinate to the High Court for the purposes of section 3 of the Contempt of Courts Act, 1952, and its contempt can be taken notice of and punished by the High Court.

[Paras 15 and 22]

*Case referred by the Hon'ble Mr. Justice J. S. Bedi on 14th November, 1966 to a larger Bench for more authoritative decision on an important question of law involved in the case. The case was finally decided by a Division Bench consisting of the Hon'ble Mr. Justice J. S. Bedi and the Hon'ble Mr. Justice Gurdev Singh.*

*Application under section 3 of the Contempt of Courts Act.*

H. S. WASU, ADVOCATE, for the Petitioners.

H. L. SARINI, BALRAJ BEHAL AND BHAL SINGH MALIK, ADVOCATES, for the Respondents.

## JUDGMENT

GURDEV SINGH, J.—In this petition under section 3 of the Contempt of Courts Act Chhota Singh and others complain of disobedience of the orders of this Court, dated 15th December, 1965 and 11th February, 1966 in Civil Writ No. 2955 of 1965, as well as of the order of the Financial Commissioner, dated 5th November, 1965 passed in proceedings between the parties under the Pepsu Tenancy and Agricultural Lands Act. The matter came up before my learned brother Bedi, J., who being of the opinion that the question whether the Financial Commissioner is a Court subordinate to the High Court, the contempt of which can be punished by this Court was not free from difficulty, referred the case to a larger Bench by his order, dated 14th of November, 1966.

(2) The petitioners, Chhotta Singh and others, were settled under the orders of the prescribed authority (Naib-Tahsildar), dated 21st December, 1962 on some of the land that had been declared surplus in the hands of Gurdial Singh, respondent No. 3, a big landowner in village Bugran, district Bhatinda. An appeal against this allotment of land to the petitioners was preferred by Gurcharan Singh, respondent No. 5, who claimed to be a tenant of the land in question under Gurdial Singh. The Collector, Bhatinda decided this appeal on 5th of August, 1965 and remanded the case for fresh decision. Thereupon the landowner Gurdial Singh (respondent No. 3) dispossessed the petitioners and obtained possession of the surplus area that had been allotted to them by the prescribed authority. The petitioners went up in revision against the Collector's order and the petition was accepted by the Financial Commissioner on 5th of November, 1965. The Financial Commissioner held that Gurcharan Singh was not a tenant of Gurdial Singh and thus not entitled to any part of the surplus area. As a result of this finding, the Financial Commissioner, holding that Gurdial Singh had wrongly taken possession of the surplus land directed that he should be immediately dispossessed and the surplus area originally allotted to the petitioners should be restored to them. The actual possession, however, could not be delivered to the petitioners as crops were standing therein. Before the compensation for those crops, which was assessed by the Gram Panchayat, could be deposited by the petitioners, Gurcharan Singh (respondent No. 5) questioned the validity of the Financial Commissioner's revisional order, dated 5th November, 1965 by means of a petition under Articles 226 and 227

Chhotta Singh, etc. v. Pritam Singh, etc. (Gurdev Singh, J.)

of the Constitution (Civil Writ No. 2955 of 1965). On admission of the writ petition Gurcharan Singh moved for staying the operation of the Financial Commissioner's order, on which Narula, J., on 15th December, 1965 directed : "*Status quo* regarding possession of the petitioner to be maintained" pending notice to the opposite party. As at that time the possession of the land in dispute was with Gurdial Singh and not Gurcharan Singh and thus the order operated to the benefit of Gurdial Singh and not that of the writ petitioner Gurcharan Singh, the present petitioners applied for the clarification of the order. Thereupon Dua, J., after hearing the parties' counsel passed the following order on 11th February, 1966 :—

"After hearing both sides it is agreed at the bar that the stay order of this Court should only be operative as against dispossession of Gurcharan Singh, petitioner in the writ petition. The actual physical dispossession of Gurdial Singh, landlord, is not covered by this writ's stay order. It may, however, be clarified that actual physical dispossession of Gurcharan Singh is quite clearly being stayed by this order pending the disposal of the writ petition . . ."

(3) The petitioners allege that despite this order, Gurdial Singh, in conspiracy with Pritam Singh (Respondent No. 1), S.I. Prem Singh (Respondent No. 2) and with the assistance of Bakhtawar Singh and Gurcharan Singh (Respondents 4 and 5, respectively) reaped the Sarson crop despite the fact that the compensation for that crop as assessed by the Gram Panchayat had been deposited by the petitioners and realised by Gurdial Singh. The petitioners complain that this conduct of the respondents constituted gross disobedience of the order of the Financial Commissioner, dated 5th November, 1965, and the stay order of this Court, as clarified on 11th of February, 1966 by Dua, J., for which they be punished.

(4) All the respondents have denied the alleged disobedience or defiance of the orders of this Court or that of the Financial Commissioner. The fact that Gurdial Singh had taken possession of the land which was originally allotted to the petitioners as surplus area and had also taken away the crops standing therein on the day the Financial Commissioner passed his order, dated 5th of November, 1965 is not disputed by them. Sub-Inspector Prem Singh defended himself by stating that he acted under the orders of his

superiors and the order of this Court, dated 11th of February, 1966 was never brought to his notice.

(5) Naib-Tahsildar Pritam Singh (Respondent No. 1) similarly pleaded that he acted in pursuance of the order of the Collector, dated 11th August, 1965 and delivered possession of vacant area measuring 107 Kanals and 17 Marlas to Gurdial Singh through the Kanungo Agrarian, Bhatinda. He further stated that after the acceptance of the revision petition of Chhotta Singh, he received an order from the Collector Agrarian, Bhatinda, to deliver possession to the petitioners after dispossessing Gurdial Singh. Thereupon he went to the spot along with the Revenue Patwari when he found that the crops were standing in the land and actual possession could not be delivered. Under the circumstances he delivered symbolic possession to the petitioners and assessing compensation for the standing crops at Rs. 900 sent his proposal to the Collector Agrarian for necessary approval. The amount of compensation proposed by him was, however, objected by both the parties whereupon the Collector Agrarian by his order, dated 10th December, 1965 referred the question of assessment of compensation to the Gram Panchayat, Bugran. It was, however, as late as 30th of December, 1965 that the Panchayat moved in the matter and fixed the compensation at Rs. 1,300, but the present petitioners did not deposit the compensation. He further asserted that the order of Dua, J., dated 11th of February, 1966 was not shown to him and all that he did in that matter after this order was passed was to report to the Collector that since compensation for the standing crops had not been deposited by the tenants, no further action could be taken in the matter till fresh orders were received from the Collector. Long before 30th of April, 1966, this Naib-Tahsildar relinquished the charge of his office and was succeeded by Shri Gauri Shankar.

(6) The Respondents 3 to 5 have defended the cutting of the crops in the disputed land on the plea that the compensation assessed by the Panchayat (Rs. 1,300), had not been deposited by the Petitioners and they asserted that since the actual possession of the land was still with Gurdial Singh, he was entitled to take away the crops.

(7) It is an admitted fact that on acceptance of the Respondent Gurcharan Singh's application by the Collector Gurdial Singh got back the possession of the land that was originally allotted to the

Chhotta Singh, etc. v. Pritam Singh, etc. (Gurdev Singh, J.)

petitioners as surplus area. The question whether Gurdial Singh was entitled to take such possession or not does not arise in these proceedings. It is also not disputed that consequent upon the acceptance of the petitioners' revision petition by the Financial Commissioner on 5th of November, 1965, since crops were standing in the land in dispute it was only symbolic possession that was delivered to the petitioners and the actual possession was deferred till the assessment of the compensation by the Panchayat and its payment by the present petitioners. It is common ground that if the compensation was not paid, the present petitioners were not entitled to take actual possession and in those circumstances the crops could be harvested by Gurdial Singh, who was in actual possession of the land at the time the Financial Commissioner passed his order, dated 5th November, 1965. In this petition there is nowhere alleged by the petitioners that the compensation assessed by the Gram Panchayat was deposited by them. On the other hand the respondents have vehemently maintained that this compensation was never deposited by the petitioners or paid to Gurdial Singh. In these circumstances, the crops which were ripe for harvesting could be taken away by Gurdial Singh. It is true that the *status quo* with regard to possession of the land in dispute had to be maintained pending the disposal of the writ petition, as directed by Narula, J., on 15th of December, 1965 and Dua, J., while clarifying that order on 11th February, 1966, had said that the actual possession of Gurdial Singh was not covered by this order but only that of Gurcharan Singh. The effect of these orders was to leave the present petitioners free to take actual possession of the land in dispute from Gurdial Singh and in terms of the order of the Collector Agrarian, before the actual possession could be taken by the petitioners they had to deposit compensation for crops as assessed by the Panchayat Bugran. Since they had not deposited the compensation, the crops which had ripened could not be allowed to remain standing indefinitely and if Gurdial Singh had harvested that crop it cannot be said that there was any violation of the orders made by this Court.

(8) The copy of the Financial Commissioner's order, the disobedience of which is complained of, has not been placed on record. The Financial Commissioner had no doubt reversed the order of the Collector and directed that Gurdial Singh should be immediately dispossessed from the land that had been originally allotted to the petitioners, but if in execution of that order the petitioners did not deposit the compensation for the standing crops, and the crop was

harvested by Gurdial Singh it cannot be said that there has been any disobedience of those orders, which requires action by this Court under section 3 of the Contempt of Courts Act.

(9) We thus find that even assuming that the Financial Commissioner is a Court subordinate to this Court, disobedience of whose orders can be punished as contempt by this Court under section 3 of the Contempt of Courts Act, we find that this petition must fail on merits as it has not been proved that any of the respondents had flouted or acted in disobedience of the relevant orders of this Court and that of the Financial Commissioner.

(10) In this view of the matter the legal question with regard to the jurisdiction of this Court to punish the disobedience of the orders of the Financial Commissioner under section 3 of the Contempt of Courts Act does not arise, but since it was this legal issue that necessitates reference to this Bench, we would like to express our opinion on it.

(11) In the course of arguments, the parties' learned counsel have referred to decisions of various Courts in which the question whether the contempt of an authority other than a Civil or Criminal or Revenue Court can be punished by this Court has been considered. None of these authorities, however, relates to the disobedience of an order passed by a Financial Commissioner. In *Lakhama Pasha v. Venkatrao Swamirao Nazare* (1), a Division Bench of that Court, to which Chagla, C.J., was a party, held that Chief Judge of the Court of Small Causes, acting as *persona designata* under City of Bombay Municipal Act was a Court subordinate to the High Court, and if a contempt is committed of that authority, it was open to the High Court to take cognizance of it and commit the contemner as if the contempt had been committed of the High Court itself. Later, in *Registrar, High Court, A. S. Bombay v. S. K. Irani, Advocate, and another* (2), the same Court ruled that the authority constituted under Payment of Wages Act, 1936, is a Court subordinate to the High Court within the meaning of section 3 of the Contempt of Courts Act. In *Chunnilal Ken v. Shyamlal Sukhram and others* (3), an Election Tribunal constituted

(1) A.I.R. 1955 Bom. 103.

(2) A.I.R. 1963 Bom. 254.

(3) A.I.R. 1959 M.P. 50.

Chhotta Singh, etc. v. Pritam Singh, etc. (Gurdev Singh, J.)

under the Representation of the People Act, 1951, was held to be a Court subordinate to the High Court under section 3 of the Contempt of Courts Act. The majority view taken in the Full Bench case of *Ram Saran Tewari v. Raj Bahadur Verma and others* (4) is that Nyaya Panchayats established under the U.P. Panchayat Raj Act, 1947, are Courts subordinate to the High Court within the meaning of section 3 of the Contempt of Courts Act. In the *Sitamarhi Central Co-operative Bank Ltd. v. Thakur Jugal Kishore Sinha* (5), a Division Bench of the Patna High Court held that an Assistant Registrar exercising the powers of a Registrar under section 48 of Bihar and Orissa Co-operative Societies Act, 1935, was a Court subordinate to the High Court.

(12) In *Malabar Hill Co-operative Housing Society v. K. L. Gauba* (6), the Bombay High Court held that contempt of a nominee of a Registrar appointed under section 54 of the Bombay Co-operative Societies Act, 1925, was not punishable as the provision relating to the appointment of a nominee itself indicated that the power which he derived for deciding the dispute was not a power derived from the State, and though he possessed certain trappings of a Court, he had no independent seisin over the case, and the power exercising by him was that of an arbitrator enabling him to make an award, which could not be equated with a judgment or decision of a Court. Similarly, in *Raja Himanshu Dhar Singh v. Kunwar B. P. Sinha* (7), the High Court refused to punish the contempt of an Assistant Registrar of Co-operative Societies, being of the opinion that "only those arbitrators can be deemed to be Courts who are appointed through a Court and not those arbitrators who function without the intervention of a Court."

(13) The last two cases referred to above along with various other authorities bearing upon the interpretations of section 3 of the Contempt of Courts Act have been considered by their Lordships of the Supreme Court quite recently in *Thakur Jugal Kishore Sinha v. The Sitamarhi Central Co-operative Bank Ltd. and another* (8), 1965, decided on 13th March, 1967, and it is unnecessary to notice the other decisions of the various High Courts bearing on

(4) A.I.R. 1962 All. 315.

(5) A.I.R. 1965 Pat. 227.

(6) A.I.R. 1964 Bom. 147.

(7) 1962 All. L.J. 57.

(8) Cr. A. 18 of 1965 decided on 13th March, 1967.

the point as the matter stands concluded by this latest pronouncement of their Lordships of the Supreme Court. In the earlier case of *Brajnandan Sinha v. Jyoti Narain* (9), on consideration of the various Indian and English decisions, it has been ruled that a Commissioner appointed under the Public Servants (Inquiries) Act, 1850, does not constitute a Court within the meaning of the term as used in the Contempt of Courts Act.

Section 3 of the Contempt of Courts Act provides :—

“3(1). Subject to the provisions of sub-section (2), every High Court shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice, in respect of contempts of Courts subordinate to it as it has and exercises in respect of contempts of itself.”

(14) Before action can be taken under this provision, for the alleged contempt of the Financial Commissioner, two matters have to be considered, viz., (1) whether the Financial Commissioner is a Court, and (2) if the answer to the first question is in the affirmative, whether he is a Court subordinate to this Court.

(15) It is now well-settled, and this has not been disputed before us, that the word “Court” used in the Contempt of Courts Act is not confined to ordinary Civil, Criminal or Revenue Courts. In fact, both the questions posed above are concluded by the recent decision of their Lordships of the Supreme Court in *Thakur Jugal Kishore Sinha v. The Sitamarhi Central Co-operative Bank Ltd. and another* (8), to which reference has already been made. In considering what distinguishes a Court from a quasi-judicial or other authority, Mitter, J., delivering the judgment of the Court, relied upon *Cooper v. Wilson* (10), where at page 340 of the Report it was observed :—

“It is clear, therefore, that in order to constitute a Court in the strict sense of the term, an essential condition is that the Court should have, apart from having some of the trappings of a judicial tribunal, power to give a decision

(9) A.I.R. 1956 S.C. 66.

(10) (1937) 2 K. B. 309.



Chhotta Singh, etc. v. Pritam Singh, etc. (Gurdev Singh, J.)

or a definitive judgment which has finality and authoritativeness which are the essential tests of a judicial pronouncement.”

(16) His Lordship also referred to the earlier decision of the Supreme Court in *Shri Virindar Kumar Satyawadi v. The State of Punjab* (11), and quoted with approval the following passage from that judgment :—

“It may be stated broadly that what distinguishes a Court from a quasi-judicial tribunal is that it is charged with a duty to decide disputes in a judicial manner and declares the rights of parties in a definitive judgment. To decide in a judicial manner involves that the parties are entitled as a matter of right to be heard in support of their claim and to adduce evidence in proof of it. And it also imports an obligation on the part of the authority to decide the matter on a consideration of the evidence adduced and in accordance with law. When a question, therefore, arises as to whether an authority created by an Act is a Court as distinguished from a quasi-judicial tribunal, what has to be decided is whether having regard to the provisions of the Act it possesses all the attributes of a Court.”

(17) Proceeding further, reliance was placed upon the following observations contained in *Cooper v. Wilson (supra)* (10), which had been earlier approved by the Supreme Court in *Brajnandan Sinha's case* (9) :—

“A true judicial decision pre-supposes an existing dispute between two or more parties, and then involves four requisites :—

- (1) The presentation (not necessarily orally) of their case by the parties to the dispute;
- (2) if the dispute between them is a question of fact, the ascertainment of the fact by means of evidence adduced by the parties to the dispute and often with

the assistance of argument by or on behalf of the parties on the evidence;

- (3) if the dispute between them is a question of law, the submission of legal arguments by the parties; and
- (4) a decision which disposes of the whole matter by a finding upon the facts in dispute and an application of the law of the land to the facts so found, including where required a ruling upon any disputed question of law."

(18) In the light of these authoritative pronouncements laying down the tests for determining whether an authority is a Court or not I now proceed to examine the functions in discharge of which the order, disobedience of which is complained of, was passed by the Financial Commissioner. That order was admittedly made by the Financial Commissioner while exercising his revisional jurisdiction under sub-section (3) of section 39 of the Pepsu Tenancy and Agricultural Lands Act, 1955 (hereinafter referred to as the Act). Under this provision, the Financial Commissioner has the authority to call for, examine and revise the proceedings of the prescribed authority or the Assistant Collector, First Grade, or the Collector or the Commissioner, as is provided in section 84 of the Punjab Tenancy Act, 1887. Sub-section (5) of section 84 of the Punjab Tenancy Act, 1887, provides :—

"If, after examining the record, the Financial Commissioner is of opinion that it is expedient to interfere with the proceedings or the order or decree on any ground on which the High Court in the exercise of its revisional jurisdiction may under the law for the time being in force interfere with the proceedings or an order or decree of a Civil Court, he shall fix a day for hearing the case, and may, on that or any subsequent day to which he may adjourn the hearing or which he may appoint in this behalf, pass such order as he thinks fit in the case."

(19) Apart from this specific provision, making it incumbent upon the Financial Commissioner to hear the parties before interfering with the order against which the revisional proceedings are

Chhotta Singh, etc. v. Pritam Singh, etc. (Gurdev Singh, J.)

pending before him, the scheme of the Pepsu Tenancy and Agricultural Lands Act, 1955, itself leaves no doubt that the Financial Commissioner, in exercise of his revisional powers, functions as a Court. In this connection, it will suffice to refer to section 41 of this Act, which runs thus :—

“41. Officers holding enquiries to have powers of civil Courts.—Any officer or authority holding an enquiry or hearing an appeal or a revision under this Act shall have the powers of a civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), relating to—

- (a) proof of facts by affidavits;
- (b) enforcing attendance of any person and his examination on oath;
- (c) production of documents;
- (d) issue of commission;

and every such officer or authority shall be deemed to be a civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).”

(20) Section 42 then provides for penalty for making a false statement in the course of the proceedings under the Act. Section 47 bars the jurisdiction of a civil Court to settle, decide or deal with any matter which under this Act is required to be settled, decided or dealt with by the Financial Commissioner or the prescribed authority, and further provides :—

“No order of the Financial Commissioner, the Commissioner, the Collector or the prescribed authority made under or in pursuance of this Act shall be called in question in any Court.”

In view of all these provisions and the scheme of the Act, the conclusion is inescapable that the Financial Commissioner was acting as a Court in making the order, the disobedience of which is complained of before us.

(21) That he is a Court subordinate to this Court for the purpose of section 3 of the Contempt of Courts Act no longer admits of any doubt, as on review of the various authorities it has been ruled by their Lordships of the Supreme Court in *Thakur Jugal Kishore Sinha v. The Sitamarhi Central Co-operative Bank Ltd. and another* (8) :—

“Under Article 227 of the Constitution, the High Court exercises judicial control over all Courts and tribunals functioning within the limits of its territorial jurisdiction.”  
Reiterating the point, Mitter, J., observed :—

“Article 227 is of wider ambit; it does not limit the jurisdiction of the High Court to the hierarchy of Courts functioning directly under it under the Civil Procedure Code and Criminal Procedure Code, but it gives the High Court power to correct errors of various kinds of all Courts and tribunals in appropriate cases. Needless to add that errors as to the interpretation of the Constitution is not out of the purview of Article 227 although the High Court could not, under the powers conferred by this Article, withdraw a case to itself from a tribunal and dispose of the same, or determine merely the question of law as to the interpretation of the Constitution arising before the tribunal. In our view, the subordination for the purpose of section 3 of the Contempt of Courts Act means judicial subordination and not subordination under the hierarchy of Courts under the Civil Procedure Code or the Criminal Procedure Code.

(22) For all these reasons, we are of the opinion that the Financial Commissioner acting under the provisions of section 43 of the Pepsu Tenancy and Agricultural Lands Act, 1955, is a Court subordinate to this Court for the purposes of section 3 of the Contempt of Courts Act, 1952; and its contempt can be taken notice of and punished by this Court.

J. S. BEDI, J.—I agree.

K. S. K.