

Collector and Collector, we find that they totally missed these important aspects of the case and therefore, it is not a case of interference with a finding of fact. As already observed, on the landowners' own evidence and statements made in Court, they cannot succeed.

(10) For the reasons recorded above, these writ petitions have no merit and same are hereby dismissed with costs.

N.K.S.

Before S. P. Goyal and G. C. Mital, JJ.

PRITAM SINGH,—*Petitioner.*

versus

MEHAL SINGH AND OTHERS,—*Respondents.*

Civil Revision No. 479 of 1984.

August 29, 1985.

Punjab Tenancy Act (XVI of 1887)—Sections 4(6), 14 and 77(3) (n) —Order of ejectment passed against a tenant but he continues in possession of the agricultural land—Suit for recovery of mesne profits against such a person—Whether triable only by a Revenue Court.

Held, that a bare reading of the provisions of Section 77(3) and clause (n) of Third Groups of the Punjab Tenancy Act, 1887, it is apparent that if a suit is covered by the provisions of Section 14, it can be instituted only in the Revenue Court and the jurisdiction of the Civil Court is expressly barred. Though in Section 14 the word used is 'landlord', but in the context in which it has been used, it has to be given the same meaning as that of a land-owner. The word 'landlord' according to section 4, sub-section (6) of the Act, means a person under whom a tenant holds land and to whom the tenant is, or but for a special contract, liable to pay rent for that land. Section 14 deals with any person in possession of land who has occupied the same without the consent of the landlord. Such a person obviously cannot be a tenant. So, the owner of the land cannot be the landlord *qua* that person as defined in section 4 sub-section (6) of the Act and the word 'landlord' in Section 14 has to be understood only signifying the person who owns the land and not the landlord as defined in Section 4. A suit by a owner for mesne profits against a person who is in possession against his consent,

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therefore, would be covered by Section 14 of the Act and is only triable by the Revenue Court.

(Para 4)

Faqir Singh vs. Gurbachan Singh and another 1971 P.L.R. 923.

(OVER RULED)

Case referred by Single Bench consisting of Hon'ble Mr. Justice Gokal Chand Mital on 13th August, 1984 to a larger Bench as the case contained an important question of law. The Larger Bench consisting of Hon'ble Mr. Justice S. P. Goyal and Hon'ble Mr. Justice G. C. Mital decided the case on 29th August, 1985.

Petition for revision of the order of Shri B. L. Singal, Sub Judge 1st Class, Karnal, dated 7th December, 1983 dismissing the application filed by the defendant.

Hemant Kumar Gupta, Advocate, R. S. Cheema, Advocate, for the Petitioner.

Umesh Wadhwa, Advocate, for the Respondent.

JUDGMENT

S. P. Goyal, J.—

(1) The petitioner along with respondent Nos. 3 to 9 were tenants on the land in dispute under respondents Nos. 1 and 2. Ejectment order was passed against them by the prescribed authority and the same was confirmed by the Commissioner on 24th June, 1978. Respondent Nos. 1 and 2 thereafter filed the present suit for mesne profits alleging that the petitioner and respondents Nos. 3 to 9 were in wrongful possession of the land in dispute since the order of ejectment was confirmed by the Commissioner. When the case was fixed for their evidence, the defendants moved an application that the Civil Court had no jurisdiction to try the present suit and the same was only triable by a Revenue Court by virtue of the provisions of Sections 14 and 77 of the Punjab Tenancy Act (hereinafter referred to as the Act). Their objection having been over-ruled, one of the defendants has come up in this revision.

(2) In the first instance, the case came up for hearing before my learned Brother G. C. Mital, J., who referred it to a larger Bench in view of two conflicting Single Bench decisions of this Court in *Faqir Singh v. Gurbachan Singh and others*, (1) and *Gordhan Dass v. Sanjha Ram*, (2). This is how we are seized of this matter.

(1) 1971 P.L.R. 923.

(2) 1969 P.L.R. 120.

(3) The question to be answered depends on the interpretation of the provisions of Section 14 and Section 77, Third Group, clause (n) of the Act. Section 14 provides that any person in possession of land occupied without the consent of the landlord shall be liable to pay for the use or occupation of that land at the rate of rent payable in the preceding agricultural year, or if rent was not payable in the year, at such rate as the Court may determine to be fair and equitable. Sub-section (3) of Section 77 provides that the suits mentioned in the Three Groups shall be instituted in and heard and determined by the Revenue Courts, and no other Court shall take cognizance of any dispute or matter with respect to which any such suit might be instituted. Clause (n) of the Third Group reads as under:—

“(n) suits by a landlord for arrears of rent or the money equivalent of rent or for sums recoverable under section 14; (for suits for the recovery of such arrears or sums by any other person to whom a right to recover the sums has been sold or otherwise transferred.”

(4) From a bare reading of the provisions of Section 77(3) and clause (n) of Third Groups it is apparent that if a suit is covered by the provisions of Section 14, it can be instituted only in the Revenue Court and the jurisdiction of the Civil Court is expressly barred. Though in Section 14 the word used is ‘landlord’, but in the context in which it has been used, it has to be given the same meaning as that of a land-owner. The word ‘landlord’ according to Section 4, sub-section (6) of the Act, means a person under whom a tenant holds land, and to whom the tenant is, or but for a special contract, liable to pay rent for that land. Section 14 deals with any person in possession of land who has occupied the same without the consent of the landlord. Such a person obviously cannot be a tenant. So, the owner of the land cannot be the landlord *qua* that persons as defined in Section 4, sub-section (6) of the Act and the word ‘landlord’ in Section 14 has to be understood only signifying the person who owns the land and not the landlord as defined in Section 4. A suit by a owner for mesne profits against a person who is in possession against his consent, therefore, would be covered by Section 14 of the Act and only triable by the Revenue Court. P. C. Pandit, J. in *Faqir Singhs’ case* (supra) held that suit for mesne profits against a trespasser would not be covered by provisions of Section 14 on the ground that neither the plaintiff would be a landlord as defined in the Act nor the defendant a tenant. As discussed above, the word ‘landlord’ in Section 14 has to be understood to signify the term

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'land-owner' and not the term 'landlord' and defined in Section 4 of the Act. A Division Bench of the Pepsu High Court in *Inder Singh v. Lal Singh and another*; (3) and later on Mehar Singh, C.J. in *Gordhan Dass's case* (supra) also took the view that a suit by a land-owner against a person in wrongful possession of the land would be cognizable only by the Revenue Court, though on different reasons. We are, therefore, of the considered view that *Faqir Singh's case* (supra) was not correctly decided and overrule the same.

(5) In result, this revision is allowed, the impugned order reversed and the case remanded to the trial Court for return of the plaint for presentation in the Revenue Court of competent jurisdiction. No costs.

N.K.S.

Before : M. M. Punchhi, J.

S. N. PANDEY,—Petitioner.

versus

STATE OF PUNJAB,—Respondent.

Criminal Misc. No. 1182-M of 1984.

August 29, 1985.

Essential Commodities Act (X of 1955)—Section 7—Fertilizer Control Order, 1957—Clauses 13 and 13(B)—Fertilizer imported from a foreign country—Such fertilizer not in accordance with the standard prescribed by control order—Disposal of this non-standard fertilizer entrusted to a dealer through governmental agencies—Disposal of non-standard fertilizer permitted subject to the conditions contained in clause 13(B)—Conditions not satisfied by the dealer—Government directing dealers to dispose of the fertilizer—Central Government having powers to exempt the fulfilment of the conditions—Prosecution of the dealer—Whether unjust and could be launched without proof of non-exemption of the conditions.

Held, that the non-obstante clause in clause 13(B) of the Fertilizer Control Order, 1957 brings but prominently its paramountcy. The object for such provision is not far to seek. Fertilizer is not an item of human consumption. Its ingredients were drawn out of the soil and air and are meant to go back into the soil and possibly air. Violating the prescribed standards may,

(3) 1955 I.L.R. 115.