

Before I. S. Tiwana, J.

SUMER SINGH,—*Petitioner.*

*versus*

FINANCIAL COMMISSIONER, REVENUE, HARYANA AND  
OTHERS,—*Respondents.*

*Civil Writ Petition No. 622 of 1974.*

August 27, 1982.

*Punjab Security of Land Tenures Act (X of 1953)—Sections 10 and 14-A(i)—Punjab Tenancy Act (XVI of 1887)—Section 77—Suit by a tenant to establish his claim as an occupancy tenant—Order of eviction under section 14-A passed against the tenant prior to the institution of the suit—Rights of such a tenant—Whether protected by the proviso to clause (i) of section 14-A.*

Held, that a reading of section 14-A(i) and sub-sections (2) and (3) of section 10 of the Punjab Security of Land Tenures Act, 1953, makes it amply clear that proviso as contained in clause (i) of section 14-A virtually forms part of sub-section (3) of section 10. Sub-section (3) is attracted only when a proceeding in relation to the same matter is pending in any court or before any authority when an application under section 14-A of the Act is made. Thus, it is patent that unless a suit was pending on the day the proceedings for the eviction of the tenant were finalised, there is no question of his rights being saved under the Punjab Tenancy Act, 1887. The only effect of the proviso is that notwithstanding the determination of the relationship of landlord and tenant between the parties, the suit of a tenant for establishing his occupancy rights under the Punjab Tenancy Act does not come to an end with the passing of the eviction order under section 14-A of the Act as all other proceedings pending in a court or before any other authority would automatically lapse in view of the provisions of sub-section (3) of section 10 of the Act. In other words, but for a suit filed by a tenant under the Punjab Tenancy Act for compensation and acquisition of occupancy rights, all other proceedings between the parties pending in any court or before any authority relating to the matter in controversy between a landlord and a tenant under section 14-A of the Act shall come to an end with the passing of an order of eviction under that section. Otherwise also, it is difficult to imagine how a person who has ceased to be a tenant or whose tenancy has lawfully been terminated with the passing of an order of eviction against him can be said to continue to be a tenant under the landlord for the purposes of the suit for compensation and acquisition of occupancy rights under the Punjab Tenancy Act. It is beyond dispute that unless the plaintiff can be styled as a tenant under the landlord, he cannot maintain such a suit.

(Para 5).

*Petition under Articles 226/227 of the Constitution of India, praying that this Hon'ble Court be pleased:—*

- (a) to summon the record of the case from respondents Nos. 1 to 3;
- (b) to issue a Writ of Certiorari or any other appropriate Writ, order or direction quashing the impugned judgments and orders of Respondents Nos. 1, 2 and 3 (Annexure 'D' 'C' and 'A') respectively.
- (c) to grant any other appropriate relief.
- (d) to award costs of the proceedings to the petitioner.

Gian Singh, Advocate, for the Petitioner.

Sarwan Singh, Advocate, for Respondents Nos. 4 to 11.

#### JUDGMENT

*I. S. Tiwana, J.*

(1) The following undisputed facts unveil the controversy raised in this petition.

(2) On October 31, 1966, respondents Nos. 4 to 11 filed a suit under section 77 of the Punjab Tenancy Act, 1887, to establish their claim as occupancy tenants on petitioner's land in their occupation. But for the Collector this suit of theirs has consistently been decreed by the other revenue Courts namely, Assistant Collector, Commissioner and the Financial Commissioner. This decree is now impugned by the petitioner-landlord primarily on the ground that the day (October 31, 1966) the above-noted respondents filed the present suit, they were not the tenants under the petitioner and had in fact ceased to be so with effect from October 27, 1966, when an order of eviction was passed against them under section 14-A of the Punjab Security of Land Tenures Act, 1953 (for short, the Act) at the instance of the petitioner. The plea raised on behalf of these respondents which, as already indicated, has been consistently accepted by the revenue Courts, is that the proviso contained in the latter part of clause (1) of section 14-A of the Act protects the rights of these tenants notwithstanding the order of eviction passed against them on October 27, 1966. The Financial Commissioner has rather dealt with

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the whole matter cursorily. This is all what he says after noticing the contentions of the learned counsel for the parties:—

“The petitioner’s counsel argued that a decree for ejectment was obtained against the respondents on 27th of October, 1966, and that the proceedings for establishing occupancy rights were instituted by the respondents on 31st October, 1966 as a counter-blast. Against this, the plea of the respondent’s counsel was that section 14-A of the Punjab Security of Land Tenures Act saves the rights of the tenant to acquisition of occupancy rights if any. The contention is accepted.”

(3) It is not disputed by the learned counsel for the respondents nor can it possibly be that relationship of landlord and tenant ceases to exist between the parties the moment an order of ejectment is passed against the tenant and his actual dispossession from the land in execution of the order of ejectment is not necessary for the determination of the tenancy. This has already been so settled by this Court in *Hans Raj and others v. Shrimati Brahma Devi*, (1) and *Tulsi and others v. Rai Sahib Pt. Bhagat Ram and others*, (2), *Pishori Lal and others v. Hukama alias Hukaman* (3) and by the final Court in *Rikhi Ram and another v. Ram Kumar and others*, (4). So the short point which needs determination by this Court is as to whether the proviso as contained in the latter part of clause (i) of section 14-A saves the rights of the respondent-tenants in spite of the order of eviction passed against them prior to the institution of the present suit.

(4) Mr. Gian Singh, learned counsel for the petitioners forcefully submits that a reading of section 14-A(i) with sub-sections (2) and (3) of section 10 of the Act makes it manifestly clear that the rights of the tenants to compensation and acquisition of occupancy rights under the Punjab Tenancy Act, 1887, are saved only if the proceedings or the suit for the determination of such compensation or acquisition of occupancy rights is pending on the day the landlord initiates proceedings for their eviction under section 14-A of

(1) 1960 P.L.J. 71.

(2) 1960 P.L.J. 78.

(3) 1972 P.L.J. 4.

(4) 1975 P.L.J. 381.

the Act. This proviso according to the learned counsel, does not save these rights of such a tenant for all times to come or in perpetuity particularly, when these rights have lawfully been determined with the passing of the order of eviction against the tenant. On the other hand, the submission of Mr. Sarwan Singh, learned counsel for the respondent-tenants is that notwithstanding the order of eviction passed against them, their rights under the Punjab Tenancy Act, 1887, remained uneffected.

(5) After giving my thoughtful consideration to the entire matter, I find merit in the submission of the learned counsel for the petitioner. The implication of section 14-A(i) is that sub-sections (2) and (3) of section 10 of the Act have to read in this clause. By doing so the substance of clause (i) would read that "a landowner desiring to eject a tenant under this Act shall apply in writing to the Assistant Collector, First Grade having jurisdiction who on receipt of the application shall, after giving to the parties notice in writing and a reasonable opportunity to be heard, determine the dispute summarily and shall keep a memorandum of eviction and a gist of his final order with brief reasons therefor. When an application has been made, any proceedings in relation to the same matter pending in any other Court or before any other authority shall be stayed on receipt of information by that Court or authority from such Assistant Collector of the fact having received the application and all such proceedings in a Court or before any authority shall lapse when the dispute has been determined by the Assistant Collector under this Act; provided that the tenant's rights to compensation and acquisition of occupancy rights, if any, under the Punjab Tenancy, Act, 1887 shall not be affected." Thus a reading of section 14-A(i) and sub-sections (2) and (3) of section 10 of the Act makes it amply clear that proviso as contained in clause (i) of section 14-A virtually forms part of sub-section (3) of section 10. Sub-section (3) is attracted only when a proceeding in relation to the same matter pending in any Court or before any authority when an application under section 14-A of the Act is made. Thus it is patent that unless the present suit was pending on the day (October 27, 1966) the proceedings for the eviction of the respondent-tenants were finalised, there is no question of their rights being saved under the Punjab Tenancy Act. The only effect of the proviso, to my mind, is that notwithstanding the determination of the relationship of landlord and tenant between the parties the suit of a tenant for establishing his occupancy rights

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under the Punjab Tenancy Act does not come to an end with the passing of the eviction order under section 14-A of the Act as all other proceedings pending in a Court or before any other authority would automatically lapse in view of the provisions of sub-section (3) of section 10 of the Act. In other words, but for the suit filed by a tenant under the Punjab Tenancy Act, 1887 for compensation and acquisition of occupancy rights, all other proceedings between the parties pending in any Court or before any authority relating to the matter in controversy between a landlord and a tenant under section 14-A of the Act shall come to an end with the passing of the order of eviction under that section. Otherwise also it is difficult to imagine how a person who has ceased to be a tenant or whose tenancy has lawfully been terminated with the passing of an order of eviction against him, can be said to continue to be a tenant under the landlord for the purposes of the suit for compensation and acquisition of occupancy rights under the Punjab Tenancy Act. It is beyond dispute that unless the plaintiff can be styled as a tenant under the landlord, he cannot maintain such a suit. No judgment has been brought to my notice by the learned counsel for the respondents in support of his contention that notwithstanding the order of eviction passed against the respondent-tenants on October 27, 1966, they continued to be tenants under the petitioner on October 31, 1966.

(6) In the light of the above, I find that the impugned judgment and decree are wholly unsustainable and are thus set aside. The necessary consequence of this is that the suit of the respondent-tenants stands dismissed. However, I pass no order as to costs.

N. K. S.

Before S. S. Sandhawalia, C.J. & S. P. Goyal, J.  
SUDARSHAN KUMAR CHADHA,—Appellant.

*versus*

SMT. SAROJ RANI,—Respondent.

First Appeal from Order No. 199-M of 1979.

August 27, 1982.

*Hindu Marriage Act (XXV of 1955)—Sections 9 and 13—  
Decree for restitution of conjugal rights obtained by consent of*