

## APPELLATE CIVIL.

*Before D. K. Mahajan and Gopal Singh, JJ.*

THE VICTORY PUBLIC HILL MOTOR TRANSPORT COMPANY,  
*Appellant.*

*versus.*

THE KARTAR BUS SERVICE LTD. ETC.,—*Respondents.*

**L. P. A. No. 611 of 1969.**

March 17, 1971.

*Motor Vehicles Act (IV of 1939)—Sections 57 and 64—Person not opposing the grant of permit before the Transport Commissioner—Whether can file an appeal under section 64(f)—Order of grant of permit against which an un-maintainable appeal having been rejected—Whether can be revised under section 64(h).*

*Held*, that the language of clause (f) of section 64 of Motor Vehicles Act admits of no ambiguity that only a person, who has opposed the grant of a permit before the Transport Commissioner, is entitled to maintain the appeal. In other words, the aggrieved party for the purpose of filing appeal and acquiring the status of an appellant must be one, who has opposed the grant of a permit. In order that a party aggrieved of the order granting permit to another party may have the *locus standi* to maintain the appeal under this clause, he must have opposed the grant of the permit.

(Para 5).

*Held*, that under clause (h) of section 64 of the Act, the Government can, for its consideration, ask the appellate authority to forward any case of appeal decided by it and the Government may revise, cancel or uphold the order passed on appeal. This clause presupposes that the appellate authority was competent and had jurisdiction to give a decision in an appeal filed before it. Where no appeal is maintainable at the instance of an appellant who has not opposed the grant of permit before the Transport Commissioner and the appeal is dismissed on the ground of the appellant having no *locus standi* to maintain the appeal and the appellate authority having no jurisdiction to determine the appeal filed by the appellant, the order passed by the appellate authority rejecting the appeal on the ground of its non-maintainability being a valid and legal order, the Government has no jurisdiction to interfere in exercise of its revisional power under clause (h) of section 64 of the Act. (Para 6).

*Letters Patent Appeal under Clause 10 of the Letters Patent against the Judgment of Hon'ble Mr. Justice Prem Chand Jain passed in Civil Writ No. 2607 of 1968 on 17th October, 1969.*

The Victory Public Hill Motor Transport Company, v. The Kartar Bus Service Ltd., Etc., (Gopal Singh, J.)

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N. K. SODHI, ADVOCATE, for the petitioner.

M. R. SHARMA, SENIOR DEPUTY ADVOCATE-GENERAL PUNJAB, for respondent No. 2

J. S. WASU, SENIOR ADVOCATE WITH R. K. CHIBBER, ADVOCATE, for respondent No. 1.

### JUDGMENT

The judgment of this court was delivered by :—

GOPAL SINGH, J.—(1) This is appeal by Victory Public Hill Motor Transport Company (Private) Limited, Hoshiarpur against the Kartar Bus Service Limited, Jullundur and the Minister for Transport, Punjab Government, respectively impleaded as respondents Nos. 1 and 2. It is directed against the judgment of single Judge dated October 17, 1969 dismissing the writ petition filed under articles 226 and 227 of the Constitution to quash the order of respondent No. 2 dated July 23, 1968.

(2) Facts giving rise to the appeal are as under :—

(3) Respondent No. 1 and the appellant carry on the business of passenger transport on some routes in the State of Punjab. The State Transport Commissioner, Punjab granted a regular permit to respondent No. 1 on September 20, 1966, for a period of three years on Hoshiarpur-Garhshankar-Nurpur route after complying with the procedure provided in Section 57 of the Motor Vehicles Act, 1939, hereinafter called the Act. Feeling aggrieved of the grant of permit to respondent No. 1, the appellant preferred an appeal under Section 64(f) of the Act to the Secretary to Government, Punjab, Transport Department. The appeal was rejected on the ground that the appellant did not file any objections under Section 57 of the Act and did not oppose the grant of permit, when the matter was pending with the Transport Commissioner. Being dissatisfied with the order of the appellate authority, the appellant filed a revision petition under Section 64(h) of the Act. That revision petition was allowed by respondent No. 2, by order dated July 23, 1968. Respondent No. 1 challenged the validity of that order by filing writ petition under articles 226 and 227 of the Constitution. That writ petition

was allowed by the learned single Judge on the ground that the appellant having not opposed the grant of permit before the Transport Commissioner, no appeal could lie on his behalf under section 64(f) of the Act from his order and that the appeal by the appellant being incompetent and the Secretary having no power to interfere with the order of the Transport Commissioner in the appeal filed on behalf of the appellant, no revision was maintainable at the instance of the appellant and consequently the order of respondent No. 2 setting aside the order of the appellate authority is unwarranted and illegal.

(4) Shri N. K. Sodhi appearing on behalf of the appellant has contended that the scope of clauses (f) and (h) of section 64, under which the appeal and the revision had been filed has been misunderstood. Clause (f) of Section 64 of the Act, under which appeal was filed, runs as follows :—

“64. Any person—

(f) being a local authority or police authority or an association, which or a person providing transport facilities who, having opposed the grant of a permit, is aggrieved by the grant thereof or by any condition attached thereto, may, within the prescribed time and in the prescribed manner, appeal to the prescribed authority, who shall give such person and the original authority an opportunity of being heard.”

(5) The language of the above clause admits of no ambiguity that only a person, who has opposed the grant of a permit before the Transport Commissioner, is entitled to maintain the appeal. In other words, the aggrieved party for the purpose of filing appeal and acquiring the status of an appellant must be one, who has opposed the grant of a permit. In order that a party aggrieved of the order granting permit to another party, may have the *locus standi* to maintain the appeal under this clause, he must have opposed the grant of the permit. There is no gainsaying the fact that the appellant did not oppose the grant of permit before the Transport Commissioner. Thus no appeal on behalf of the appellant is competent and the appellate authority has no jurisdiction to deal with it. The order of the appellate authority rejecting the appeal of the appellant is fully called for by the provision of clause (f) of Section 64 of the Act.

(6) The next provision, to which our attention has been invited is clause (h) of Section 64 of the Act, as amended by Section 11 of

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the East Punjab (Amendment) Motor Vehicles Act, No. XXVIII of 1948. Clause (h) is reproduced below :—

“Government may ask the appellate authority prescribed under the rules framed under this Section to forward for its consideration any of the appeal decided by the appellate authority and may later, revise, cancel or uphold any such orders.”

(7) Under clause (h), the Government can, for its consideration, ask the appellate authority to forward any case of appeal decided by it and the Government may revise, cancel or uphold the order passed on appeal. This clause presupposes that the appellate authority was competent and had jurisdiction to give a decision in an appeal filed before it. As already discussed in connection with the scope of clause (f) of Section 64 of the Act, no appeal was maintainable at the instance of the appellant inasmuch as he never opposed the grant of permit to respondent No. 1 and consequently no appeal was competent. The appellate authority rightly dismissed the appeal on the ground of the appellant having no *locus standi* to maintain the appeal and the appellate authority having no jurisdiction to determine the appeal filed by the appellant. The order passed by the appellate authority rejecting the appeal on the ground of its non-maintainability being a valid and legal order, respondent No. 2 had no jurisdiction to interfere in exercise of its revisional power under clause (h) of Section 64 of the Act. Thus, the order of respondent No. 2 is illegal and not maintainable.

(8) For the foregoing reasons, we dismiss the appeal with costs and uphold the judgment of the learned Single Judge.

K.S.K.

APPELLATE CIVIL.

Before D. K. Mahajan & Gopal Singh, JJ.

RAM PARSHAD,—Appellant.

versus

GOBINDA ETC.,—Respondents

L. P. A. No. 430 of 1969

March 17, 1971.

Punjab Security of Land Tenures Act (X of 1953)—Section 17-A—word “tenant”—Whether includes “sub-tenant”—Sale by a landlord—Whether pre-emptible.