

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4245 OF 2012

Shyam LalAppellant

versus

Deepa Dass Chela Ram Chela Garib DassRespondent

JUDGMENT

M. Y. EQBAL, J.

This appeal by special leave is directed against the judgment dated 28.6.2010 of the High Court of Punjab and Haryana whereby the second appeal filed by the appellant-plaintiff was dismissed with costs throughout.

2. The litigation between the parties commenced on the filing of the suit by the plaintiff-appellant for permanent

injunction against the respondent-defendant claiming to have been in possession of the suit property for 27-28 years as Gair Marusi and alleging that the respondent was threatening to dispossess him. The plaintiff claimed himself to be in possession over the agricultural land measuring 122 kanals 2 marlas situated in village Chhainsa, Tehsil Ballabhgarh, District Faridabad having tube-well, electricity connection and his house in Killa No.26 in which he is allegedly residing for the last 27-28 years continuously and also having another Engine Tubewell Bore in killa no.26(1-2). It is the case of the plaintiff that earlier Ram Dass Chela Garib Das was the owner of the aforesaid land, which is now recorded in the ownership of the defendant-respondent vide Rapat No.508 dated 8.8.2003.

3. The case of the respondent on the other hand is that the suit property was leased to the appellant-plaintiff by its original owner Ram Dass Chela with effect from 12.7.1986 to

June, 1994 and then again from 29.5.1996 till 28.5.2005 for a consideration of Rs.1,60,000/-. The respondent had purchased the suit property on 8.8.2000. The respondent-defendant pleaded that after expiry of the lease on 28.5.2005 the suit property was to revert back to the defendant, but the plaintiff illegally and unlawfully wanted to grab the suit land and as such the respondent also filed a counter-claim in the said suit seeking a decree for mandatory injunction directing the plaintiff to handover vacant peaceful possession of the land to the defendant with damages at the rate of Rs.17,800/- per annum for unauthorized occupation of the suit land. Contesting this counter claim, plaintiff replied that after the expiry of lease, plaintiff has become statutory tenant and his tenancy is protected by the provisions of the Punjab Security of Land Tenure Act, 1953 (hereinafter referred to as the "1953 Act"). It was also pleaded that the plaintiff is liable to pay fixed rent of Rs.3000/- per annum and not the amount which has been claimed by the defendant as damages.

4. The trial court, after considering the pleadings and evidence led before it, dismissed the suit of the appellant but allowed the counter-claim holding that the plaintiff was not a Gair marusi but a tenant over the suit property whose tenancy had expired on 28.5.2005 and was a trespasser thereafter. Aggrieved by the judgment of the trial court, the plaintiff-appellant preferred an appeal which was dismissed by the District Court upholding the findings of the trial court. The plaintiff-appellant then moved the High Court by way of second appeal contending that he was a tenant under section 4(5) of the Punjab Tenancy Act, 1887 and Section 2(6) of the Punjab Security of Land Tenures Act, 1953, and therefore, could be evicted only on the grounds mentioned in Section 17 of the 1953 Act. The appellant also contended that the lease deed produced by the respondent was not admissible in evidence as it was not registered.

5. Dismissing the appeal of the plaintiff with costs, learned Single Judge of the High Court held that the appellant would not be a tenant after the expiry of the lease and would also not be entitled to protection under Section 9 of the 1953 Act as the respondent landlord had made his intention of not extending the lease by filing a counter-claim against the petitioner seeking possession. Section 9 of the 1953 Act protects subsistent tenancy and not a trespasser in possession after the expiry of the lease. Learned Single Judge further held that though an unregistered lease deed was not admissible in evidence, however as the lease deed herein was meant for agricultural purposes, it was exempt from registration under Section 117 of the Transfer of Property Act. Hence, the present appeal by special leave by the plaintiff under Article 136 of the Constitution.

6. We have heard Mr. Parveen H. Parekh, learned senior counsel appearing for appellant and Mr. Manoj Swarup,

learned counsel for the respondent. We have also perused the impugned judgment and all the papers placed before us. The question that arises for consideration is as to whether the plaintiff-appellant became a trespasser after expiry of the lease period or continued to be a tenant having protection for eviction under the tenancy laws.

7. Mr. P.H. Parekh, learned senior counsel appearing for the appellant, referred relevant provisions of the Punjab Security of Land Tenures Act, 1953 and submitted that a tenant in possession of agricultural land cannot be held to be a trespasser only because of expiry of the period for which he was put in possession as a tenant. According to the learned senior counsel, even after the expiry of the lease or contract, he will continue as the statutory tenant and not as the trespasser. Learned senior counsel put reliance on the decision of the Supreme Court in the case of **Bhajan Lal vs. State of Punjab & ors.**, (1971) 1 SCC 34, **V. Dhanapal Chettiar vs. Yesodai Ammal**, (1979) 4 SCC 214, and on

the Punjab and Haryana High Court's decision in **Ram Lal vs. Darshan Lal & ors.**, (2008) 3 RCR (Civil) 427.

8. Mr. Manoj Swarup, learned counsel for the respondent, in support of his contention said that after the expiry of lease the lessee became a trespasser, relied upon decisions of this Court in **R.V. Bhupal Prasad vs. State of A.P. & Ors.**, (1995) 5 SCC 698, and the decisions of the Punjab and Haryana High Court in the cases of **Mandir Jhoke Hari Har & ors. vs. Ajit Kaur & ors.**, 1977 PLJ 315 and **Rameshwar vs. Sheo Chand & ors.**, 1981 PLJ 362.

9. To decide rival claims of the parties, we think it appropriate to reproduce here relevant provisions of the law.

10. In order to provide for the security of land tenure and incidental matters, the Punjab Security of Land Tenures Act, 1953 was enacted. However, such provisions of land

security Act which are inconsistent with the newly enacted provisions of the Haryana Ceiling of Land Holding Act, 1972 has been repealed. The provisions of 1953 Act still holds the field in many matters with regard to eviction and protection of tenants in the manner not provided in the Act. Section 2(6) of the Act defines the word 'Tenant' as under:-

"Tenant" has the meaning assigned to it in the Punjab Tenancy Act, 1887 (Act XVI of 1998), and includes a sub-tenant, and self-cultivating lessee, but shall not include a present holder, as defined in section 2 of the resettlement Act."

11. Section 4(5) of the Punjab Tenancy Act, 1887 (in short, "1887 Act") defines the word 'tenant' as under:-

"4. Definitions- In this Act, unless there is something repugnant in the subject or context,-

XXXX

(5) "tenant" means a person who holds land under another person, and is or but for a special contract would be, liable to pay rent for that land to that other person; but does not include -

(a) an inferior landowner, or

(b) a mortgagee of the rights of a landowner, or

(c), a person. to Whom a holding has been transferred, or an estate or holding has been let in

farm under the Punjab Land Revenue Act 1887 (XVII of 1887), for the recovery of an arrear of land

revenue or of a sum _recoverable as such an arrear
or

(d) a person who takes from the Government a
lease of unoccupied land for the purpose of
subletting it.”

12. Section 2(8) of the 1887 Act defines the word “tenancy”
as a parcel of land held by a tenant of a landlord under one
lease or one set of conditions. Section 40 of the said Act
provides the grounds under which the tenant, who is in
occupation for a fixed term, can be ejected. Section 40
reads as under:

**“40. Grounds of ejectment of tenant for a fixed
term—**

A tenant not having a right of occupancy but holding for a
fixed term under a contract or a decree or order of
competent authority, shall be liable to be ejected from his
tenancy at the expiration of that term, and, on any of the
following grounds, before the expiration thereof
namely :--

(a) that he has used the land comprised in
the tenancy in a manner which renders it
unfit for the purposes for which, he held it ;

(b) where rent is payable in kind, that he
has without sufficient cause failed to
cultivate that land in the manner, or to the
extent customary in the locality in which the
land is situate ;

(c) on any ground which would justify ejectment under the contract decree or order.”

13. Reading the definition of tenant in both the Acts together would show that a tenant includes a self cultivating tenant and is liable to pay rent. Section 42 of the 1887 Act prescribes the procedure for ejectment, which is quoted hereinbelow:

“42. Restriction of Ejectment-A tenant shall not be ejected otherwise than in execution of a decree for ejectment, except in the following cases, namely:-

(a) when a decree for an arrear of rent in respect of his tenancy has been passed against him and remains unsatisfied;

(b) when the tenant has not a right of occupancy and does not hold for a fixed term under a contract or a decree or order of competent authority.”

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14. Coming back to 1953 Act, which provides the circumstances where the tenancy shall continue. Section 8 reads as under:-

“8. Continuity of tenancies -

The continuity of tenancy shall not be affected by—

- (a) the death of the landlord, or
- (b) the death of tenant , except when the tenant leaves no male lineal descendants or mother or widow, and
- (c) any change therein under the same land-owner, and for the purposes of sections 17 and 18 of this Act, such tenancy shall be the last area so held.”

15. Section 9 of the 1953 Act provides the liability of the tenant to be ejected from the land held by him. Section 9 reads as under:-

“9. Liability of the tenant to be ejected.—

(1) Notwithstanding anything contained in any other law for the time being in force, no land-owner shall be competent to eject the tenant except when such tenant -

(i) is a tenant on the area reserved under this Act or is a tenant of a small land-owner, {or}

(ii) fails to pay rent regularly without sufficient cause, or

(iii) is in arrears of rent at the commencement of this Act, or

(iv) has failed, or fails, without sufficient cause, to cultivate the land comprised in his tenancy in the manner or to the extent customary in the locality in which the land is situate, or

(v) has used, or uses, the land comprised in his tenancy in a manner which has rendered, or

renders it unfit for the purpose for which he holds it, or

(vi) has sublet the tenancy or a part thereof, provided that where only a part of the tenancy has been sublet, the tenant shall be liable to be ejected only from such part, or

(vii) refuses to execute a Qabuliyat or a Patta, in the form prescribed, in respect of his tenancy on being called upon to do so by an Assistant Collector on an application made to him for this purpose by the land owner

Explanation - For the purposes of clause (iii), a tenant shall be deemed to be in arrears of rent at the commencement of this Act, only if the payment of arrears is not made by the tenant within a period of two months from the date of notice of execution of decree or order, directing him to pay such arrears of rent.

(2)] Notwithstanding anything contained hereinbefore a tenant shall also be liable to be ejected from any area which he holds in any capacity whatever in excess of the permissible area;

Provided that the portion of the tenancy from which such tenant can be ejected shall be determined at his option if the area of his tenancy under the land-owner concerned is in excess of the area from which he can be ejected by the said land owner;

Provided further that if the tenant holds land of several land-owners and more than one land-owner seeks his ejectment, the right to ejectment shall be exercised in the order in which the applications have been made or suits have been filed by the land-owners concerned, and in case of simultaneous applications or suits the priority for ejectment shall commence serially from the smallest land-owner.

Explanation.- Where a tenant holds land jointly with other tenants, only his share in the joint tenancy shall be taken into account in computing the area held by him."

16. Section 10 makes provision for restoration of tenant ejected after 15th August, 1947. The said provisions are as under:-

"10. Restoration of tenant ejected after the 15th of August, 1947-

- (1) Where a tenant has been ejected from any land in excess of the permissible area on grounds other than those mentioned in section 9, before the commencement of this Act, and after the 15th August, 1947, and such land is under self-cultivation, such tenant shall, [subject to the provisions of this Act be entitled to be restored to his tenancy in the manner prescribed on the same terms and conditions on which it was held by him at the time of his ejection, on an application made to an Assistant Collector of the first Grade having jurisdiction, within one year from the date of intimation of reservation after the commencement of this Act, or, if no such reservation is made within the period specified in sub-section(3) of section 5, two years from the date of commencement of this Act;

Provided that if more tenants than one have been ejected from the same tenancy, the right of application for restoration shall be exercisable in serial order of priority commencing from the tenant first ejected and to the extent in each case of the permissible area, after taking into account any other tenancy or land which the ejected tenant holds at the time of his application for restoration.

- (2) On receipt of an application the Assistant Collector 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 evidence and a gist of his final order with brief reasons therefor.
- (3) 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 of 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 acting under this Act.
- (4) A land-owner or any other person in actual possession of land at the time of restoration shall be entitled to such compensation as may be determined by the Assistant Collector, from the tenant intended to be restored for any loss suffered in consideration of anything done prior to the date of his first receiving information of the application.

Provided that no ejected tenant shall be restored to his tenancy as provided hereinbefore unless he has paid compensation as determined by the Assistant Collector to the land-owner or other person, if any as the case may be."

17. Section 14-A provides for ejectment and recovery of arrears of rent which reads as under :-

“14-A. Notwithstanding anything to the contrary contained in any other law for the time being in force, and subject to the provisions of section 9-A.-

- (i) a land owner desiring to eject a tenant under this Act shall apply in writing to the Assistant Collector First Grade having jurisdiction, who shall thereafter proceed as provided for in sub-section (2) of sub-section 10 of this Act, and the provisions of sub-section (3) of the said section shall also apply in relation to such application, provided that the tenants rights to compensation and acquisition of occupancy rights, if any under the Punjab Tenancy Act, 1887 (XVI of 1887), shall not be affected;

Provided that if the tenant makes payment of arrears of rent and interest, to be calculated by the Assistant Collector, First Grade, at eight per centum per annum on such arrears together with such costs of the application, if any, as may be allowed by Assistant Collector, First Grade, either on the day of first hearing or within fifteen days from the date of such hearing, he shall not be ejected

- (ii) a land-owner desiring to recover arrears of rent from a tenant shall apply in writing to the Assistant Collector Second Grade, having jurisdiction, who shall thereupon send a notice in the form prescribed to the tenant either to deposit the rent or value thereof , if payable in kind or give proof of having paid it or of the fact that he is not liable to pay the whole or part of the rent or of the fact of the landlords refusal to receive the same or to give a receipt, within the period specified in the notice. Where, after summary determination, as provided for in sub-section (2) of Section 10 of this Act, the Assistant Collector finds that the tenant has not paid or deposited the rent he shall eject the tenant summarily and put the landowner in possession of the land concerned;
- (iii) (a) if a landlord refuses to accept rent from his tenant or demands rent in excess of what he is entitled to under this Act, or refuses to give a receipt, the tenant may in writing inform the Assistant Collector second Grade, having jurisdiction of the fact;
(b) on receiving such application, the Assistant Collector shall by a written notice require the landlord to

accept the rent payable in accordance with this Act, or to give a receipt, as the case maybe , or both ,within 60 days of the receipt of the notice “

18. Perusal of Section 18 of 1953 Act would show that the tenant have also been given right to purchase the land if he is in continuous possession of the land for a minimum period of six years. This Section even gives a right to a tenant, to purchase land, who was ejected from his tenancy after 14th August, 1947 and who was in continuous possession of the land for a period of six years.

19. Considering the provisions of Sections 9, 14, 14A and 18 together, we have no doubt in our mind that a tenant of an agricultural land is liable to be evicted only in the manner provided under the Act notwithstanding any contract on the basis of which tenant occupied possession of the land for the purpose of cultivation. We are also of the view that action for eviction of a tenant can be taken before a Revenue

Authority to whom power and jurisdiction has been conferred by the said Act.

20. The defendant-respondent's own case in the written statement is that the appellant-tenant came in possession of the land in 1986 and remained in continuous possession till 2005. Indisputably, the appellant's name was recorded in Jamabandies, which is evident from the Exhibit P-1 and P-2. Khasra Girdwari entries are also in the name of appellant. The trial court without appreciating the evidence came to the following conclusion that the appellant became a trespasser. The court held:-

"The jamabandies produced by both the parties are self contradictory. The jamabandies produced by the plaintiff name of the plaintiff is entitled in the gair marusi record and chakota as the name is entered at Rs.3,000/- per annum and Ram Dass Chela Garib Dass has given the aforesaid land to Shyam lal on lease from 29.5.1956 to 28.5.2005 for Rs. 1,60,000/-. Therefore, it proves that the possession of the plaintiff over the suit property is termed to be a trespasser and plaintiff has not having any right to remain over the suit property as tenant. It is also pointed out that if the plaintiff is a gair marusi tenant. He has to prove on file the payment made by him to the land owner but there is nothing on record to prove this fact that the plaintiff has paid any amount to the defendant/land owners."

21. The Appellate Court, although took notice of the entries in the revenue record wherein plaintiff-appellant was recorded as Gair Marusi, held that those entries are without any basis and liable to be ignored. The learned Appellate Court further held that after the expiry of lease period in 2005 the appellant loses authorization to hold possession of the land and his right to hold possession is not more than a trespasser.

22. Similar provisions have been made in the Orissa Tenancy Act, 1913. Section 3(23) is the definition of tenant which means a person who holds land under another person, and is, but for a special contract would be, liable to pay rent for that land to that person.

23. Sub-section 2 of Section 5 of the Orissa Act defines the term "Raiyat", which means primarily a person who has acquired the right to hold land for the purpose of cultivating

it by himself or by person of his family or by hired servants and also includes successors-in-interest or person who have acquired such right. Further, where a tenant of land has the right to bring it under cultivation shall be deemed to have acquired a right to hold it for the purpose of cultivation.

24. We find similar definition of tenant under the Rajasthan Tenancy Act, 1955. Section 5(43) defines the word 'tenant' as under :-

“(43) “Tenant” shall mean the person by whom rent is, or, but for a contract, express or implied, would be, payable and except when the contrary intention appears, shall include -

- (a) in the Abu area, a permanent tenant or protected tenant,
- (b) In the Ajmer area, an ex-proprietory tenant or an occupancy tenant or a hereditary tenant or a non-occupancy tenant or a Bhooswami or Kashtkar,
- (c) in the Sunel area, an ex-proprietory tenant or a pakka tenant or an ordinary tenant,
- (d) a co-tenant,
- (e) a grove-holder,
- (f) a village servant
- (ff) a tenant holding from a landowner,
- (g) a tenant of Khudkasht,
- (h) a mortgages of tenancy rights, and

(i) a sub-tenant
but shall not include a grantee at a favourable rate of
rent or an ijaradar or a thekadar or a trespasser”

25. Now we shall discuss the decisions relied upon by the learned counsel on either side. In ***Dhanapal Chettiar’s case*** (supra), the question that came for consideration before the larger Bench of this Court was as to whether under the Rent Control Act notice under Section 106 of the Transfer of Property Act is necessary for the purpose of proceeding against the tenant for his eviction on the grounds mentioned in the Rent Control Legislation. This Court held that in the case of eviction under the Rent Act, the tenancy actually terminates on the passing of the order or decree for eviction. Hence, determination of a lease in accordance with the Transfer of Property Act is not necessary and a mere surplusage because the landlord cannot get eviction of the tenant even after such determination. The tenant continues to be so even thereafter.

26. Similarly the decision relied upon by the respondent in **Bhupal Prasad's case** (supra) is also have no application in the present case inasmuch as it was a case under the Rent Control Act. In our considered opinion, the aforesaid two decisions of this Court deal with the status of the tenant under the Rent Control Act after the expiry of fixed term lease and the right of landlord to get eviction on certain grounds. In the case of tenant holding agricultural land, the tenancy and procedure of ejectment of tenant are governed by relevant State Tenancy Laws, which are special Act and such tenancy is not covered by Transfer of Property Act.

27. In the case of **Sukhdev Singh (D) thr. Lrs. & ors. vs. Puran & ors.**, [SLP(C)No.18654 of 2008], a Bench of this Court on consideration of the provisions of the Punjab Security of Land Tenure Act, 1953 was of the opinion that after the expiry of the fixed term tenancy in respect of

agricultural land, the provision of 1953 Act will have no application. The Court observed:-

“In our view, the aforesaid argument of the learned counsel does not merit acceptance. Admittedly, the petitioners were granted lease of the suit land in 1955 for a period of 20 years and the term of their lease ended in 1975. Section 9 of the 1953 Act is attracted only when a tenant is sought to be evicted. The said section is not applicable to a case where the tenancy gets terminated by efflux of time and the person occupying the lease premises no longer remains tenant. There is no provision in the 1953 Act similar to those contained in the Urban Rent Control Legislations under which a tenant becomes statutory tenant after expiry of the contractual tenure of the tenancy.”

28. In the case of ***Bhajan Lal vs. State of Punjab***, (1971) 1 SCC 34, considering the provisions of Sections 9, 14A and Section 18 of the Punjab Security of Land Tenure Act, 1953 and discussing the right of the tenant to purchase the land, this Court held:

“6. It was urged that since Section 18 commences with a non-obstante clause viz. “Notwithstanding anything to the contrary contained in any law, usage or contract”, if a proceeding in ejectment is lodged against the tenant which ultimately is allowed, the tenant cannot make a claim during the pendency of the proceeding to purchase the land. To hold

otherwise, it was urged, would enable a tenant in default to defeat the claim in a suit in ejectment by commencing a proceeding for purchasing the land. We do not think that the expression "Notwithstanding anything to the contrary contained in any law, usage or contract" whittles down the right of the tenant at the date when he makes a claim to purchase the land merely because the tenancy is liable to be terminated in a proceeding then pending for an order in ejectment under Section 14-A, at the instance of the land-owner. Under the Act, the tenancy does not stand terminated merely because a proceeding in ejectment is instituted. The tenancy is determined only in the conditions prescribed by Section 9 and in the manner provided by Section 14-A. If a tenant is in default in payment of rent the land-owner desiring to recover rent due by the tenant may apply in writing to the Assistant Collector who shall thereupon send a notice to the tenant to deposit the rent due or give proof of having paid it. If the tenant fails to pay the rent or give proof of payment, the Assistant Collector shall, after a summary inquiry, if he is of the view that the tenant has not paid or deposited the rent, eject the tenant summarily and put the land-owner in possession of the land concerned. But so long as the Assistant Collector has not passed the order ejecting the tenant the right of the tenant is not extinguished: he continues to remain a tenant and being a tenant he is entitled to exercise his right to purchase the land."

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29. In ***Sanwat Singh vs. Zail Singh***, (1997) 9 SCC 468, while discussing tenant's right under 1953 Act in a case where the land in possession of the tenant is sold by the owner of the land, this Court held that a tenant as defined

under Punjab Tenancy Act, 1887 means a person who holds the land under another person and is, but for a special contract, would be, liable to pay rent and he is liable to be evicted only under certain conditions as provided under Section 9 of the said Act. Referring Section 9 of the said Act, this Court held:

“5. In other words, notwithstanding anything contained in any other law for the time being in force, including the law relating to prescription, a tenant in possession of the demised property by the vendor is not liable to ejectment except in accordance with the provisions contained in Section 9 of the Punjab Security of Land Tenures Act, 1953. It is not his case that he has contravened any of the provisions and is liable to be ejected. Even otherwise, if his case is that he has contravened any of the provisions, unless appropriate action in accordance with law is taken and order passed, he is entitled to resist unlawful interference with the possession. Thereby, the decree granted by the appellate court and confirmed by the High Court is not correct in law.”

30. In ***Tulsi vs. Paro***, (1997) 2 SCC 706, this Court after considering provisions of Section 105 of the Transfer of Property Act observed:

"It is not necessary that lease should always be reduced to writing. What is necessary is for transfer of a right of enjoyment of the property made for a certain time, expressed or implied and for consideration of the price, paid or promised, the transferee must have been put in possession of the demised property. It is also necessary that an agreement can be entered into for rendering periodical service and for consideration thereof and on transfer of the land to the transferee and acceptance thereof, either orally or in writing, the lease comes into existence. It is seen that when the name of the appellant has successively found place in the records for the period from 1951-52 to 1971-72 as "tenant at will", the necessary conclusion is that he is a tenant at will liable to eviction according to law. The theory that he is a licensee, as has been accepted by the High Court and the trial court, is untenable. A licensee has no right in the property, not to speak of any right to the exclusive possession of the property and animus of possession always remains with the licensor; the licensee gets the possession only with the consent of the licensor and is liable to vacate when so asked. In this case, since the appellant remained in uninterrupted possession and enjoyment of the property for over 20 years, it is unthinkable to conclude that they are only licensee. The High Court and the trial court, therefore, were clearly in error in reaching the conclusion that the appellant is only a licensee. On the other hand, from the facts, it is clear that the appellant is a tenant and he will be liable for ejectment only in accordance with law. If he is otherwise entitled to tenancy right of the property, the right can be had in accordance with law and it is open to him to work out the same in accordance with law."

31. In the case of ***Ram Lal vs. Darshan Lal and ors.***, (2008) 3 RCR (Civil) 427, a Bench of Punjab and Haryana

High Court was considering the right of the tenant conferred by Section 9 of the 1953 Act. In that case, the tenant was in possession of the agricultural land on the basis of the lease for 20 years. Upon expiry of the said lease period, a suit for possession was filed contending that after expiry of the lease the tenant's possession became illegal and unauthorized. Hence, he is liable to be evicted by obtaining a decree from civil court. Rejecting the contention of the landlord, the High Court held that in terms of provisions contained in 1953 Act, a tenant shall be evicted only on the grounds mentioned in Section 9 of the said Act. The Court observed

"6. In Shri Raja Durga Singh Versus Tholu and others, AIR 1963 SC-361, the Court found that suit for possession and mesne profits against the defendant who claims to be occupancy tenant and status as tenant is not barred from the cognizance of the Civil Court. However, in the present case, it is the admitted fact that defendant No.1 was inducted as tenant for a period of 20 years. Therefore, the question which requires to be examined is whether after the expiry of the period of lease, the tenant can be evicted by filing a Civil Suit for possession. The said question was not the question raised or decided in the aforesaid judgment. Therefore, even the said judgment provides little assistance to the appellant.

7. In the present case, the Punjab Security of Land Tenures Act, 1953 protects the tenancy of agricultural land in favour of the tenant. The Punjab Security of Land Tenures Act, 1953 specifies the grounds of eviction which are available to the landlord. The eviction of a tenant after the expiry of lease is not a ground mentioned therein. Therefore, after the expiry of lease, the tenant would be a statutory tenant and such tenant can be evicted only in terms of one or the other grounds of eviction contemplated under Section 9 of the Punjab Security of Land Tenures Act, 1953. Such eviction proceedings have to be initiated before the competent Revenue Court. Therefore, I do not find any illegality or irregularity in the finding recorded that the Civil Court has no jurisdiction to grant a decree for possession."

32. Taking into consideration the various tenancy laws applicable in the State of Punjab and the law discussed by this Court and the High Court, in our considered opinion the trial court, the appellate court and the High Court have committed error of law in holding that a tenant of agricultural holding becomes a trespasser after the expiry of period of tenancy. The High Court and the lower courts have failed to consider that the agricultural tenancy are governed by the State Tenancy Laws which are special Acts for the purpose of regulating the tenancy and protecting the tenants

from eviction without following the procedure provided in those State Laws. The procedure for eviction of tenant in occupation of building by approaching the civil court under Rent Control Act will not be applicable for evicting the tenants holding agricultural land. We are further of the view that it is the Revenue Court specially empowered to take action for eviction of tenant in the manner provided under the Act notwithstanding any contract on the basis of which the tenant occupied possession of the agricultural land for the purpose of cultivation.

33. Be that as it may, in ***Sukhdev Singh's case*** (supra) a Bench of this Court on consideration of the provisions of Punjab Security of Land Tenures Act, 1953 was of the opinion that after the expiry of fixed term tenancy in respect of agricultural land, the tenancy gets terminated by efflux of time and person occupying the lease premises no longer remains tenant. With due respect, we are not in agreement

with the view taken by this Court in ***Sukhdev Singh's case*** (supra).

34. In the aforesaid circumstances, to maintain judicial discipline, the matter needs to be referred to a larger Bench for laying down a correct law.

35. We, therefore, direct the Registry to place the record before Hon'ble the Chief Justice of India for placing the matter before a larger Bench.

JUDGMENTJ.
(M.Y. Eqbal)

.....J.
(Shiva Kirti Singh)

New Delhi
February 27, 2015