

Ishar Singh

Vs

Financial Commissioner and Others

Civil Appeal. No. 892 of 1979

(Y. V. Chandrachud, D. P. Madon, Ranganath Misra JJ)

18.07.1984

JUDGMENT

CHANDRACHUD, C.J. -

1. On November 5, 1969, the appellant, who is a tenant of certain agricultural lands was allegedly dispossessed by the landlords. He brought a suit in a civil court for possession. That proceeding occupied a total period of one year, two months and thirteen days. The civil court dismissed the suit on the ground that it had no jurisdiction to entertain the suit since a suit for possession of agricultural lands has to be filed before the Collector under the Pepsu Tenancy and Agricultural Lands Act, 1955.
2. On July 29, 1971, the appellant filed an application under Section 43 of the Pepsu Tenancy Act for possession of the lands from the landlords. The Collector, before whom the application was filed, dismissed the application on the sole ground that it was barred by limitation. He held that Section 50 of the Punjab Tenancy Act, 1887, prescribes a period of one year for filing an application for possession and that the said provision would govern applications filed under Section 43 of the Pepsu Tenancy Act. The appellant filed an appeal against the judgment of the Collector which was allowed by the Commissioner, Patiala Division, who remanded the matter to the Collector for consideration of the other questions involved in the application. The respondent-landlords thereafter filed a revision application to the Financial Commissioner who set aside the judgment of the Commissioner and restored that of the Collector. The appellant filed a writ petition in the High Court of Punjab and Haryana to challenge the judgment of the Financial Commissioner but that writ petition was dismissed by the High Court. Being aggrieved by the judgment of the High Court, the appellant has filed this appeal by special leave.
3. This appeal came up for hearing before a Bench of this Court on March 6, 1984, when it directed the respondents to file a statement of the case explaining how the provisions of Section 50 of the Punjab Tenancy Act are applicable to a proceeding under Section 43 of the Pepsu Tenancy Act. In pursuance of that direction, the respondents have filed a statement in which they aver that, though the Limitation Act is not applicable to a proceeding under Section 43 of the Pepsu Tenancy Act, the provisions of Section 50 of the Punjab Tenancy Act would apply. Beyond this bare statement, no reasons have at all been given in the statement filed by the respondents as to how a provision contained in an entirely different act can govern a proceeding under the Pepsu Tenancy Act. We are unable to appreciate that, in spite of a specific direction given by this Court, the respondents should have done nothing better than making a bald assertion of the very position regarding which they were asked to furnish the necessary data.

4. The Commissioner of Patiala Division held by his judgment dated April 8, 1974 that since, no period of limitation is prescribed under the Pepsu Tenancy Act for filing a petition under Section 43 of that Act, there would not be any legal basis for holding that the period of limitation prescribed by Section 50 of the Punjab Tenancy Act would apply to a proceeding under Section 43 of the Pepsu Tenancy Act. We agree with this statement of law and hold that, in the absence of any provision in the Pepsu Tenancy Act making the provision the Punjab Tenancy Act applicable to proceedings under that Act, it is impossible to incorporate the provisions of the Punjab Tenancy Act into the Pepsu Tenancy Act. We are, therefore, of the opinion that the Collector, the Financial Commissioner and the High Court were in error in dismissing the application filed by the appellant on the ground that it was barred by limitation. No period of limitation would apply to the filing of an application under Section 43 of the Pepsu Tenancy Act of 1955 since no such period is prescribed by that Act and the Limitation Act has no application to a proceeding under the Pepsu Tenancy Act.

5. Accordingly, we set aside the judgment of the High Court dated September 11, 1978, and remand the matter to the Collector for a decision on the merits of the issues involved in the case. Since the matter has been pending for a long time, the Collector will dispose of the application expeditiously, as far as possible within two months after the receipt of the record.

6. The appeal will stand disposed of in terms of this order. The appellant will get the costs of this appeal from the respondent-landlords.

</html