

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS  
CIVIL APPEAL NO(s). 5805-810 OF 2002

OM PRAKASH

Appellant (s)

VERSUS

FINANCIAL COMMNR., HARYNA & ORS.  
(With office report )

Respondent(s)

WITH Civil Appeal NO. 5811-5816 of 2002  
(With office report)

Date: 29/10/2009 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B. SUDERSHAN REDDY  
HON'BLE MR. JUSTICE J.M. PANCHAL

For Appellant(s) Mr. Dhruv Mehta, Adv.  
Mr. Mohit Abhraham, Adv.  
Mr. T.S. Sabarish, Adv.  
Ms. Tanushree Mukherjee, Adv.  
Mr. Manoj sharma, Adv.  
M/S K.L. Mehta & Co., Adv.

For Respondent(s) Mr. Debasis Misra, Adv.(N.P.)  
Mr. Kamal Mohan Gupta, Adv.(N.P.)

UPON hearing counsel the Court made the following  
O R D E R

The appeals are allowed in terms of the signed order.

(Hemalatha Mohan)  
Sr. P.A.

(Vijay Dhawan)  
Court Master

(signed order is placed on file)  
IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.5805-5810 OF 2002

OM PRAKASH

.... APPELLANTS(S)

VERSUS

FINANCIAL COMMISSIONER, HARYANA & ORS.

.... RESPONDENT(S)

WITH

CIVIL APPEAL NO.5811-5816 OF 2002

These appeals by special leave are directed against the final judgement and order dated 22nd May, 2000, passed by the High Court of Punjab and Haryana at Chandigarh, whereby the writ petitions as well as the review petitions filed by the appellants were dismissed summarily.

The facts in brief that are required to be noticed for the purposes of disposal of these appeals are as under:

The appellants having purchased the lands in question in the year 1953 (hereinafter referred to as 'the said lands'), have become the owners thereof. The said lands were given to the respondents as tenants on 15.02.1972 on 1/3 Batai in terms of the order of the District Judge dated 18.06.1970 and Sub-judge dated 15.02.1972. In the year 1973, the appellants initiated eviction proceedings against the respondents in respect of the said lands under Section 9(1) (i) of the Punjab Security of Land Tenures Act, 1953 (for short 'The Act'). The respondents denied the relationship of

.../2

-2-

land-owner and tenant and claimed that the area on which they were inducted as tenants by the appellants, is the surplus area of a big land-owner and thus the appellants were not the land-owners of the said lands. Assistant Collector passed orders of eviction of the respondents on the ground that the respondents were holding more than 269 canals of other lands as owners, apart from the said lands into which they were inducted as tenants. The matter ultimately came to this Court in Jodha Ram (Dead) By LRS vs. Financial Commissioner, Haryana, Chandigarh and Others, reported in (1994) 1 SCC 27. This Court finally upheld the contentions of the appellants that the said lands purchased by them from the land owners in the year 1953 is not a surplus land and, thereby, rejected the plea of the respondents that they were not the tenants of the appellants, still application for recovery of possession filed on behalf

of the appellants under Section 9(1)(i) of the Act has been dismissed, ".....because in view of Section 10-A of that Act, the appellant is not entitled to resume possession of the lands in question, after evicting the tenants."

Be it noted that even while the proceedings initiated under Section 9(1)(i) of the Act were pending before various forums, the appellants initiated eviction proceedings against the respondents for their eviction from the said lands under Section 9(1)(ii) of the Act, on the ground that the

.../3

-3-

respondents failed to pay the rent regularly without sufficient cause ever since their induction as tenants. The

Assistant Collector ordered ejectment of the respondents vide order dated 23rd January, 1978.

The Collector confirmed the

said order of ejectment on the ground of non-payment of rent from 1973 onwards. The Financial Commissioner, Haryana,

while considering the cases for eviction of the respondents

on the ground of non-payment of rent held that there is a

relationship of land-owners and tenants between the parties

and the lands are not surplus lands within the meaning of the

provision of Haryana Ceiling and Land Holdings Act, 1972.

It

was held that the appellants were entitled for rent from

the respondents and, accordingly, awarded payment of rent,

with interest. Thus a decree was passed in favour of the

appellants. However, the Financial Commissioner refused to

order eviction of the respondents from the said lands on the

ground that this Court in Jodha Ram (supra) has not allowed

ejectment of respondents-tenants under Section 9(1)(i) of the

Act. Aggrieved by the order dated 11.10.1993 of the

Financial Commissioner the appellants filed writ petitions

before the High Court. The High Court dismissed the writ

petitions summarily in the following manner:-

"We have heard the learned counsel for the petitioner.

In view of the order of the Supreme Court that the

tenants could not be ejected by the petitioner-landowner from the land as the petitioners were big land owners. The question of ejection as tenants under section 9(i)(ii) of The Punjab Security of Land

.../4

-4-

Tenures Act, 1953 would not arise as well. We therefore, find no merit in this petition. Dismissed."

The High Court did not examine the matter on merits and as to

the applicability of the ratio of the judgment of this Court

in Jodha Ram's case (supra). It is true that parties in

Jodha Ram's case (supra) and parties in the present

proceedings are one and the same, but the proceedings in the

earlier round of litigation which ultimately landed in this

Court in Jodha Ram's Case were initiated under Section 9(1)

(i) of the Act and not under Section 9(1)(ii) of the Act.

Whether the ratio of the judgment in Jodha Ram's case (supra)

is applicable even in respect of eviction proceedings

initiated under Section 9(1)(ii) of the Act has never been

gone into by the High Court. The question is required to be

gone into by the High Court since the issue is squarely

raised by the appellants in their writ petitions that the law

declared by this Court in Jodha Ram's case (supra) has no

application to the eviction proceedings initiated by them

under Section 9(1)(ii) of the Act. In the aforesaid

circumstances we find it difficult to sustain the impugned

order passed by the High Court dismissing the writ petitions

and review petitions summarily.

For the aforesaid reasons, we set aside the impugned

order of the High Court and restore the writ petitions to

their original file for their hearing and disposal on merits

.../5

-5-

in accordance with law.

The parties are entitled to raise

and urge all the grounds that are raised in the writ

petitions as well as in these appeals.

The High Court shall

dispose of the writ petitions on merits uninfluenced by the

observations, if any, made in this order.

The appeals are accordingly allowed.

C.A.NOs.5811-5816 of 2002

The High Court by the impugned order summarily rejected the writ petition following its own order which we have set aside and allowed the connected appeals. The question that arise for consideration in these appeals is as to whether the appellants are entitled for recovery of rent from the respondents as prayed for by them in their eviction petitions or only w.e.f. 8.1.1982 as awarded by the Financial Commissioner, relying on a decision of this Court in Jodha Ram's Case (supra). In Jodha Ram's Case an interim order was passed for payment of rent with 10% interest compounded annually. Be it noted that as to from what date the appellants are entitled to recover the rent from the respondents was not the subject matter that had arise for consideration by this Court. This aspect of the matter has not been considered by the High Court which summarily rejected the writ petitions filed by the appellants following its own orders without even advertng to the question that had fallen for consideration.

.../6

-6-

For the aforesaid reasons the impugned order is set aside and the writ petitions shall stand restored to their original file for their disposal in accordance with law on merits uninfluenced by the observations, if any, made in this order.

It is needless to observe that all the writ petitions shall be heard together and disposed of. The appeals are accordingly allowed to the extent indicated above.

We request the High Court to dispose of the matters as expeditiously as possible, preferably within 6 months.

.....J.  
(B. SUDERSHAN REDDY)

.....J.  
(J.M. PANCHAL)

NEW DELHI ;  
OCTOBER 29, 2009