

Bhartu vs Randhir Singh & Ors on 22 January, 1985

Equivalent citations: 1985 AIR 413, 1985 SCR (2) 638, AIR 1985 SUPREME COURT 413, 1985 (1) SCC 733, (1985) 2 CURLJ(CCR) 79, 1985 PUNJ LJ 208, 1985 REV LR 191, 1985 UJ (SC) 712, (1985) 1 LANDLR 331, (1985) 1 CURCC 935

Author: O. Chinnappa Reddy

Bench: O. Chinnappa Reddy, R.B. Misra

PETITIONER:

BHARTU

Vs.

RESPONDENT:

RANDHIR SINGH & ORS.

DATE OF JUDGMENT 22/01/1985

BENCH:

REDDY, O. CHINNAPPA (J)

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REDDY, O. CHINNAPPA (J)

MISRA, R.B. (J)

CITATION:

1985 AIR 413

1985 SCR (2) 638

1985 SCC (1) 733

1985 SCALE (1) 98

ACT:

Pepsu Tenancy and Agricultural Lands Act 1955 Sections 7 7A and 8.

HEADNOTE:

Whether landowner has to wait for a term of three years before terminating tenancy.

The PEPSU Tenancy and Agricultural Lands Act, 1955 which was originally passed in 1955 and amended in 1955 was again amended in 1956. The Act purports to amend and consolidate the law relating to tenancies of agricultural land and to provide for certain measures of land reforms.

A tenancy may be terminated in accordance with the provisions of the Act or on any of the grounds enumerated in section 7; namely non-payment of rent within a period of six

months, subletting without written consent, cessation of personal cultivation of the tenant, user of the land in a manner which is likely to render it unfit, and refusal by the tenant on demand in writing to execute a kabuliyat.

In the case of tenancies subsisting at the commencement of the Pepsu Tenancy and Agricultural Lands (Second Amendment) Act, 1956, section 7-A provided for two grounds for termination of tenancy in addition to the grounds specified in section 7, namely, (i) that the land comprising the tenancy has been reserved by the landlord for his personal cultivation in accordance with the provisions of Chapter-II, and (ii) that the landowner owns 30 standard acres or less of land and the land falls within his permissible limit.

In the case of tenancies commencing after the commencement of Pepsu Tenancy and Agricultural Lands (Second Amendment) Act, 1956, section 8 provided that the minimum term of the tenancy shall be three years, subject to the provisions of section 7.

In the appeals to this Court on the question, whether in the case of tenancies commencing after the commencement of the Pepsu Tenancy and Agricultural Lands (Second Amendment) Act, 1956, section 8 provided for an additional ground for terminating a tenancy, namely, the expiry of the period of tenancy provided it is not less than three years.

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Dismissing the Appeals,

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HELD: The proper way of looking at the scheme of sections 7, 7-A and 8 is to hold that while section 7 enumerates the grounds on which any tenancy may be terminated, section 7-A provides for additional grounds on which tenancies subsisting at the commencement of the Pepsu Tenancy and Agricultural Lands (Second Amendment) Act, 1956 may be terminated and section 8 provides for the termination of a tenancy commencing after the commencement of the Pepsu Tenancy and Agricultural Lands (Second Amendment) Act, 1956 apart from the grounds mentioned in section 7. That is why section 7 itself uses the word 'no tenancy shall be terminated except in accordance with the provisions of the Act or except on any of the following grounds.' that is to say, a tenancy may be terminated either on the grounds mentioned in section 7 or in accordance with the provisions of the Act. [642A-C]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 803, 834 to 83J of 1971.

From the Judgment and Order dated 4th January, 1971 of Punjab & Haryana High Court at Chandigarh in Letters Patent T. S. Krishna Murthy Iyer and E.C. Agarwala for the Appellant.

V. C. Mahajan, Mrs. Urmila Sirur and Sanjive Puri for the Respondents.

The Judgment of the Court was delivered by CHINNAPPA REDDY, J. Though we confess that during the course of the hearing we did feel somewhat perplexed as to the proper construction to be placed on the provisions of secs. 7, 7 A and 8 of the PEPSU Tenancy and Agricultural Lands Act, 1955, on second thoughts we think that only one conclusion is permissible. The PEPSU Tenancy and Agricultural Lands Act, 1955 which was originally passed in 1955 and amended in 1955, was again amended in 1956. The Act purports to amend and consolidate the law relating to tenancies of agricultural land and to provide for certain measures of land reforms. Section 3 broadly defines "permissible limit" for the purposes of the Act to mean 30 standard acres of land and where such 30 standard acres on being converted into ordinary acres exceed 80 acres, such 80 acres. Section 5 enables every land owner owning land exceeding 30 standard acres to select for personal cultivation from the land held by him in the State in parcel or parcels of land not exceed-

ing in the aggregate the permissible limit and reserve such land for personal cultivation by intimating his selection in the prescribed form and manner to the Collector. Section 6 requires the Collector to notify the particulars of all lands reserved for personal cultivation of a land-owner under sec. 5. Chapter IV-A (secs. 32-A to 32-A) deals with ceiling on land and acquisition and disposal of surplus area. In particular sec. 32-A provides that notwithstanding anything to the contrary in any law, customs, usage or agreement, no person shall be entitled to own or hold as land-owner or tenant land under his personal cultivation within the State which exceeds in the aggregate the permissible limit. The subsequent provisions provide for the determination of the surplus area and sec. 32-E provides for the vesting of surplus area in the State Government. We have to note here that sec. 32-DD provides that tenancies created after the commencement of the 1956 amendment in any area which could have been declared as surplus area have to be declared for the purposes of determining the surplus area of any person. Section 32-F vests the Collector with the power to take possession of surplus area and sec. 32-J describes the modes of disposal of surplus area. We are not really concerned with all those provisions for the present purpose. Chapter III of the Act deals with "General rights of tenancy". Section 7 prescribes that no tenancy shall be terminated except in accordance with the provisions of the Act or except on any of the following grounds. The grounds mentioned are non-payment of rent within period of six months after it falls due, subletting without the consent in writing of the land-owner, cessation of personal cultivation of the tenant in the manner and to the extent customary in the locality, user of the land or any part of it in a manner which is likely to render it unfit for the purpose for which the land was leased and the refusal by the tenant, on demand in writing, to execute a kabuliyat agreeing to pay rent in accordance with the statutory provisions. What has to be particularly noticed is that the tenancy cannot be terminated except in accordance with the provisions of the Act or except on any of the grounds mentioned in sec. 7. In other words, a tenancy may be terminated in accordance with the provisions of the Act or on any of the grounds mentioned in sec. 7. Therefore, it means that the tenancy may be terminated on any grounds mentioned in sec. 7 or in accordance with the provisions of the Act provided, of course, other provisions of the Act provide for the termination of tenancy. In the case of tenancies

subsisting at the commencement of the Pepsu Tenancy and Agricultural Lands (Second Amendment) Act, 1956, sec. 7-A provides for two grounds for termination of tenancy in addition to the grounds specified in sec. 7, namely, (i) that the land comprising the tenancy has been reserved by the landowner for his personal cultivation in accordance with the provisions of Chapter-II and (ii) that the landowner owns 30 standard acres of less land and the land falls within his permissible limit. In the case of tenancies commencing after the commencement of the Pepsu Tenancy and Agricultural Lands (Second Amendment) Act, 1956, sec. 8 provides that the minimum term of the tenancy shall be three years, subject to the provisions of sec. 7. The question raised for consideration in the present case is whether in the case of tenancies commencing after the commencement of the Pepsu Tenancy and Agricultural Lands (Second Amendment) Act, 1956, sec. 8 provides for an additional ground for terminating a tenancy, namely, the expiry of the period of tenancy provided it is not less than three years. The learned counsel for the appellant argued that sec. 8 is made expressly subject to the provisions of sec 7 and when it prescribes that the minimum period of tenancy shall be three years, it cannot possibly mean that the tenancy may be terminated before the expiry of the term of three years. According to the learned counsel, sec. 8 means that a tenancy may not be terminated on any ground whatsoever for three years but may be terminated after the term of three years but may be terminated on any of the grounds mentioned in sec. 7. Such a construction in our opinion would lead to some absurd and anomalous results. For example, one of the grounds mentioned in sec. 7 which enables the termination of the tenancy is the user by the tenant of the land in a manner which is likely render the land unfit for the purpose for-which it was leased him. If the construction placed upon sec. 8 by the appellant is to be accepted, a tenant may, with impunity as soon as the land is leased to him, use the land in a manner to render the land unfit for the purpose for which it was leased to him, yet the land-owner would have to wait for a term of three years before terminating the tenancy. This appears to us to be an absurd consequence and it is not possible for us to accept a construction which will lead to such disastrous results. The only alternate construction of sec. 8 is to hold that quite distinctly from the provisions of sec. 7. a tenancy may not be terminated within a period of three years after its commencement if the tenancy commenced after the commencement of the Pepsu Tenancy and Agricultural Lands (Second Amendment) Act, 1956, that is to say, while the provisions of sec. 7 would always be available in the case of tenancies commencing after the Second Amendment Act, a tenant may also be evicted on the termination of the period of tenancy which shall not be less than three years. So construed it may appear as if the words 'subject to the pro-

visions of sec. 7' are being read by us as 'notwithstanding the provisions of sec. 7; but that may not be a correct way of looking at what we have said. The proper way of looking at the scheme of secs. 7, 7-A and 8 is to hold that while sec. 7 enumerates the grounds on which any tenancy may be terminated, sec. 7-A provides for additional grounds on which tenancies subsisting at the commencement of the Pepsu Tenancy and Agricultural Lands (Second Amendment) Act, 1956 may be terminated and sec. 8 provides for the termination of a tenancy commencing after the commencement of the Pepsu Tenancy and Agricultural Lands (Second Amendment), 1956, apart from the grounds mentioned in sec 7. That is why sec. 7 itself uses the word 'no tenancy shall be terminated except in accordance with the provisions of the Act or except of any of the following grounds,' that is to say, a tenancy may be terminated either on the grounds mentioned in sec. 7 or in accordance with the provisions of the Act. We think that this is the only reasonable and permissible

way of construing sec. 8 in the setting of secs 7, 7-A and 8. The view taken by us appears to have been taken consistently by the Punjab High Court in the last 15 years and construing as we are doing a State Act, we do not think that there are any compelling reasons justifying any departure from the view taken by the Punjab High Court for so long. The appeals are, therefore, dismissed. No Costs.

N. V. K.

Appeal dismissed.