Raj Kanta vs Financial Commissioner, Punjab And Anr on 7 May, 1980

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Bench: Syed Murtaza Fazalali, P.S. Kailasam

PETITIONER:
RAJ KANTA

Vs.

RESPONDENT:
FINANCIAL COMMISSIONER, PUNJAB AND ANR.

DATE OF JUDGMENT07/05/1980

BENCH:
FAZALALI, SYED MURTAZA
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FAZALALI, SYED MURTAZA
KAILASAM, P.S.

CITATION:
1980 AIR 1464 1980 SCR (3)1006
1980 SCC (3) 589

ACT:
Punjab Security of Land Tenures Act, 1953, Section 9 interpretation-Words and Phrases, meaning of the term 'regularly' in Section 9(i)(ii) of the Act-Whether a 'single default' in payment of rent would attract the provisions of Section 9(1) (ii).

HEADNOTE:
Pera Ram, Ganga Ram, Bhago and Kalu Ram were the tenants of agricultural land owned by Mrs. Raj Kanta, the appellant. The tenants made separate applications under section 18 of the Punjab Security of Land Tenures Act, 1953, on September 4, 1961 for purchasing the land held by them from the land owner. These applications were allowed by the Assistant Collector on October 31, 1961. Accordingly, the

tenants deposited the first instalment in November 1961. Ultimately, however, the tenants did not pay the rent of the respective holdings for Kharif 1961. It is common ground that the last date by which the rent for Kharif 1961 was payable by the tenants to the land owner was January 15, 1962 and that the tenant did not pay the rent and did not show sufficient cause for the same. In view of the default, the land owner filed separate applications under s. 9(1)(ii) of the Act on the ground that as the tenants had failed to pay the rent regularly without sufficient cause, they were entitled to be ejected by the land owner. The applications for ejectment were, however, dismissed but on appeal the Collector allowed the appeals by his order dated May 31, 1962. Second appeals preferred by the tenants in the ejectment proceedings were dismissed by an order dated 5-11-62 of the Commissioner and ultimately upheld by the Financial Commissioner by his Order dated December 21, 1962.

Having failed before the Revenue courts, the tenants-respondents filed a writ petition in the High Court which was heard by a single judge. But in the case of Kalu Ram the Financial Commissioner allowed the petition and rejected the prayer for his ejectment by the land owner as a result of which the land owner filed a writ petition in the High Court. All the petitions were consolidated and heard together, by the single Judge who allowed the writ petition of the tenants and quashed the order of the Financial Commissioner directing ejectment of the tenants. The writ petition of the land owner against Kalu Ram was, however, dismissed. Hence, the four appeals by the land owner-appellant to this Court.

Allowing the appeals, the Court

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HELD: 1. The Punjab Security of Land Tenures Act 1953 is a piece of social legislation meant to ameliorate the lot of the tenants by conferring on them the status of a permanent tenancy or the rights to purchase the land on payment of instalments. At the same time, the landlords within a very limited sphere have been assured protection in respect of the rights which they possess in the land and have been given the right to eject the tenants on specified grounds which are contained in the various sub-clauses of section 9 of the Act. Sub-Clause (ii) is one such sub-clause. This right was absolute and could not

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be curtailed by interpreting clause (ii) of section 9(1) of the Act through a process of twisting the law and doing violence to the language of the section, especially when it admits of no ambiguity. [1010 A-C, 1011 A-B]

Bhagirath Ram Chand v. State of Punjab and Ors., A.I.R. 1954 Punjab 167: referred to.

2. The word 'regular' which is derived from the word 'regula' which means 'rule', means in a regular manner, methodically, in due order and postulates a state of

symmetry, consistency and uniformity. In other words, 'regular' means a consistent course of conduct without any break or breach.

[1011 B, D, F & 1012 A]

Arab Bank v. Ross, [1952] 2 Q.B.D. 216; Hammond v. London County Council, [1931] Chancery 540; quoted with approval.

3. Although the Act is heavily loaded in favour of the rights of the tenants so as to confer on them several important benefits and privileges yet as the Act is confiscatory in nature, so far as the landlord is concerned, it should be strictly construed within the limited sphere inasmuch as the landlord is conferred limited grounds on which ejectment is permissible under s. 9 of the Act which appears to be a safety valve for the limited rights that are left with the landlord under the Act. In order therefore to advance the object of the Act so as to assure the limited protection to the landlord, the language employed in the various clauses of s. 9 has to be construed so as to give real benefit to the landlord within the limited range that the section operates. [1012 D-F]

A correct interpretation of the plain language and the words and phrases used in clause (ii) of section 9(1) of the Act would be that the word 'regular' connotes a consistent course of conduct without any break or breach and the 'regular payment of rent' would mean that the rent should be paid punctually without any default or laxity. The Legislature clearly intended to use the word 'regularly' to mean payment of rent in this manner. The Legislature never contemplated that a single default could be condoned. The word 'regularly' has been used immediately after the words 'fails to pay the rent' and is followed by the words "without sufficient cause". The Legislature clearly provided that if the tenant had committed a default whether one, two or more, the same could only be condoned if sufficient cause is shown and not otherwise.

[1012 A-D]

4. The words "failure to pay rent regularly without sufficient cause" in Section 9(1)(ii) of the Act cause postulate the following conditions:

1. there must be a failure on the part of the tenant to pay rent;
2. such failure must be to pay rent regularly, that is to say, the rent should be paid punctually consistently without any break or breach;
3. if there is any default ranging from one to several, the tenant has got to show sufficient cause if his case is to be taken out of the mischief of s. 9(1)(ii). [1012 F-H]

5. It is well settled that the Legislature does not waste words and every word that is used by it must be

presumed to have some significance. The function of the Court is 'jus decere' not 'jus dare'. The Court cannot, therefore, in
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order to promote its social philosophy turn and twist the plain and unambiguous language of the law so as to ascribe to it a meaning different from the one intended by the Legislature. The words 'without sufficient cause' clearly indicate that in order to escape ejectment, the tenant must at least be regular in payment of the rent and if he wants to get rid of the consequences of his default, he must prove sufficient cause. Reading the entire sentence, the cumulative effect thereof unmistakably is that the Act includes even a single default and that is why instead of using the word 'default', the word 'regularly has been employed which is immediately followed by the words 'without sufficient cause'. If the legislature intended that a single default would not entitle a landlord to eject the tenant under the Act, then it would have said so expressly either by way of an explanation or otherwise in clause (ii) of s. 9(1) of the Act.

[1013 C-F]

6. While the Explanation to section 9(1) of the Act takes care to define as to when a tenant would be deemed to be in arrears and fixes a period of two months, indeed if the intention of the legislature was that a single default in payment of rent could be condoned, it should have included this incident also in the explanation. This provides therefore, the most important intrinsic circumstance to support the interpretation of clause (ii) of section 9(1) of the Act.

[1014 A-B]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeals Nos. 1270 & 1317-1319 of 1970.

From the Judgment and Order dated 5-2-1970 of the Punjab and Haryana High Court in L. P. A. Nos. 96-99 of 1966.

Kapil Sibal, J. B. Dadachanji and Shri Narain for the Appellant.

S. Manchanda, Mrs. Shobha Dikshit and Mrs. Urmila Kapoor for the Respondents.

The Judgment of the Court was delivered by FAZAL ALI, J.-These appeals by certificate are directed against a Common judgment dated February 5, 1970 of the Punjab and Haryana High Court by which a Letters Patent Appeal against a decision of the Single Judge was dismissed.

The facts of the case lie within a narrow compass and all the appeals involve a short point of law relating to the interpretation of s.9 of the Punjab Security of Land Tenures Act, 1953 (hereinafter referred to as the 'Act'). The history of the case has been detailed in the judgment of the High Court and it is not necessary for us to repeat the same. Shorn of unnecessary details the appeals arose out of applications made by Pera Ram. Ganga Ram, Bhago and Kalu Ram who were the tenants of agricultural land owned by Mrs. Raj Kanta, the appellant in these appeals. The tenants made separate applications under s. 18 of the Act on September 4, 1961 for purchasing the land held by them from Mrs. Raj Kanta (hereinafter called the 'land owner'). These applications were allowed by the Assistant Collector on October 31, 1961. Accordingly, the tenants deposited the first instalment in November 1961. Ultimately, however, the tenants did not pay the rent of the respective holdings for Kharif 1961. It is common ground that the last date by which the rent for Kharif 1961 was payable by the tenants to the land owner was January 15, 1962 and that the tenant did not pay the rent and did not show sufficient cause for the same. In view of the default, the land owner filed separate applications under s.9(1) (ii) of the Act on the ground that as the tenants had failed to pay the rent regularly without sufficient cause, they were entitled to be ejected by the land owner. The applications for ejectment were, however, dismissed but on appeal the Collector allowed the appeals by his order dated May 31, 1962. Second appeals preferred by the tenants in the ejectment proceedings were dismissed by an order dated 5.11.62 of the Commissioner and ultimately upheld by the Financial Commissioner by his Order dated December 21, 1962.

Having failed before the Revenue courts, the tenants- respondents filed a writ petition in the High Court which was heard by a Single Judge. But in the case of Kalu Ram the Financial Commissioner allowed the petition and rejected the prayer for his ejectment by the land owner as a result of which the land owner filed a writ petition in the High Court. All the petitions were consolidated and heard together, by the single Judge who allowed the writ petition of the tenants and quashed the order of the Financial Commissioner directing ejectment of the tenants. The writ petition of the land owner against Kalu Ram was, however, dismissed. Hence, the four appeals by the land owner- appellant in this Court.

The only point that has been canvassed before us is as to whether or not the High Court was right in interpreting s.9 of the Act by holding that the term 'regularly' used in s.9(1) (ii) would not include a single default. While the Revenue courts had held that the mere fact that the tenants made a single default in payment for the rent for Kharif 1961 was sufficient to attract the penalty of ejectment envisaged by s. 9(1) (ii) of the Act, the High Court took the view that on a proper interpretation of the term 'regularly' it will appear that the legislature did not contemplate that ejectment should be ordered straightaway even if a single default, though unexplained, is committed by the tenant which interpretation would run against the avowed object of the legislation which was to advance and ameliorate the lot of the tenants. The High Court had considered the matter at very great length and placed a very wide interpretation on the term 'regularly' so as not to include within its ambit one single default. It has also referred to a number of authorities and Dictionaries to show that the word 'regularly' does not mean absolute symmetry. Having gone through the reasons given by the High Court we are unable to agree with the view taken either by the single Judge or the Division Bench of the High Court. There can be no doubt that the Act is a piece of social legislation meant to ameliorate the lot of the tenants and to further the rights of the tenants by conferring on them the

status of a permanent tenancy or the rights to purchase the land on payment of instalments. At the same time, we cannot overlook the fact that the landlords within a very limited sphere have been assured protection in respect of the rights which they possess in the land and have been given the right to eject the tenants on specified grounds which are contained in the various sub-clauses of s. 9 of the Act. One such sub-clause is sub-clause (ii) which falls for interpretation in the instant case. Section 9(1) as also clauses (i) and (ii) may be extracted thus:-

> "9. Liability of 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 a 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; .. .. .."

While interpreting the word 'regularly' the High Court seems to have overlooked two important circumstances. In the first place, the word 'regularly' has been used immediately after the phrase 'fails to pay rent' and is followed by the words 'without sufficient cause'. Secondly, there is nothing in the section to indicate that the legislature intended to exclude one single default. The High Court attempted to supply words to the section which are not there. In doing so it has failed to consider that if once the court was to lay down a particular line of demarcation by extending the connotation of the word 'regularly' to exclude one default, it is difficult to explain why the legislature contemplated only one default and not two or three for that matter.

In order to construe the plain language of s.9(1) (ii) which admits of no ambiguity, it may be necessary to look to the object and the purposes of the Act. In the case of Bhagirath Ram Chand v. State of Punjab & Ors. a full Bench of the Punjab & Haryana High Court held that the Preamble of the Act stated that it was intended to provide for the security of land tenure and other incidental matters. It is no doubt true that the main thrust of the provisions of the Act are directed towards preventing the landlords from ejecting their tenants except on the grounds mentioned in s.9, but at the same time, it cannot be denied that the legislature undoubtedly provided some protection to the landlords by conferring on them a limited right to eject their tenants and within this limited sphere, the right was absolute and could not be curtailed by interpreting clause

(ii) of s. 9(1) of the Act through a process of twisting the law and doing violence to the language of the section. To begin with, the word 'regular' is derived form the word 'regula' which means 'rule' and its first and legitimate signification, according to Webster, is 'conformable to a rule, or agreeable to an established rule, law, or principle, to a prescribed mode. In Words and Phrases (Vol. 36A, p.241) the word 'regular' has been defined as 'steady or uniform in course, practice or occurrence, etc., and implies conformity to a rule, standard, or pattern'. It is further stated in the said Book that 'regular' means steady or uniform in course, practice, or occurrence; not subject to unexplained or

irrational variation. The word 'regular' means in a regular manner, methodically, in due order. Similarly, Webster's New World Dictionary defines 'regular' as 'consistent or habitual in action, not changing, uniform, conforming to a standard or to a generally accepted rule or mode of conduct:

> In the case of Arab Bank Ld. v. Ross while construing the words 'complete and regular', Romer LJ observed as follows:-
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> "It wold accordingly follow, in my judgment, in the present case that the omission of the word "company" from the endorsement would reasonably give rise to a doubt whether in point of personality the payees and the indorsers were necessarily the same; and if so the bills cannot, as I think, be said to be "complete and regular" on their face."

The view of the Judge clearly indicates that the word 'regular' postulates a state of symmetry, consistency and uniformity. In Hammond v. London County Council while construing the term "regularly employed", Farwell J. observed as follows:-

> "It is of course a question of fact in each case whether a man was regularly employed or not, but in this particular case I think that the plaintiff, who was employed for the five years and paid his wages day in and day out during that period as a servant or officer of the defendants' predecessors, was "regularly employed" during that period."

This interpretation also supports our view that the word 'regular' means a consistent course of conduct without any break or breach.

On a consideration of the authorities mentioned above, it seems to us that the legislature clearly intended to use the word 'regularly' to mean payment of rent in a uniform and consistent manner without any breach or default. The legislature never contemplated that a single default could be condoned. This inference is fortified by the words "without sufficient cause". In other words, the legislature clearly provided that if the tenant had committed a default, whether one, two or more, the same could only be condoned if sufficient cause is shown and not otherwise. If, however, we accept the interpretation of the High Court, then the words "sufficient cause" becomes, absolutely redundant.

On an overall consideration of the matter, a correct interpretation of the plain language and the words and phrases used in clause (ii) of s.9(1) of the Act seems to us that the word 'regular' connotes a consistent course of conduct without any break or breach and the words 'regular payment of rent' mean that the rent should be paid punctually without any default or laxity. Although the Act is heavily loaded in favour of the rights of the tenants so as to confer on them several important benefits and privileges yet as the Act is confiscatory in nature, so far as the landlord is concerned it should be strictly construed within the limited sphere inasmuch as the landlord is conferred limited grounds on which ejectment is permissible under s.9 of the Act which appears to be a safety valve for the limited rights that are left with the landlord under the Act. In order therefore to advance the object of the Act so as to assure the limited protection to the landlord, the language employed in the

various clauses of s. 9 has to be construed so as to give real benefit to the landlord within the limited range that the section operates. In the instant case, the words 'failure to pay rent regularly without sufficient cause' postulate the following conditions:-

> (1) there must be a failure on the part of the tenant to pay rent;
>
> (2) such failure must be to pay rent regularly, that is to say, the rent should be paid punctually consistently without any break or breach;
>
> (3) if there is any default ranging from one to several, the tenant has got to show sufficient cause if his case is to be taken out of the mischief of s. 9(1) (ii).

We might add at the risk of repetition that the use of the words `without sufficient cause' clearly indicates that the intention of the legislature was that in order to escape ejectment, the tenant must at least be regular in payment of the rent and if he wants to get rid of the consequences of his default, he must prove sufficient cause. If, however, we construe the word `regularly' as meaning at regular intervals so as to include a single default, then the term `without sufficient cause' becomes absolutely redundant. For instance, even if a single default in the payment of the rent is committed by the tenant, his case could be taken out of the ambit of clause (ii) of s. 9(1) without insisting on the tenant to prove sufficient cause for this single default. That would, therefore, make the words `sufficient cause' meaningless in such cases. It is well settled that the legislature does not waste words and every word that is used by it must be presumed to have some significance. The function of the Court, says Sir Fracis Bacon, is "jus decere and not jus dare" (to interpret the law and not to make the law). The Court cannot, therefore, in order to promote its social philosophy turn and twist the plain and unambiguous language of the law so as to ascribe to it a meaning different from the one intended by the legislature. We are constrained to observe, with due respect, that this is what the High Court seems to have done in this case by adopting a puerile and pedantic process of reasoning. In these circumstances, reading the entire sentence, the cumulative effect thereof unmistakably is that the Act includes even a single default and that is why instead of using the word `default' the word `regularly' has been employed which is immediately followed by the words `without sufficient cause'. Moreover, we might mention that in the various Rent Acts passed in the States, ejectment is permissible in some cases where there is a single default, in other cases where there is more than one default and so on. If the legislature intended that a single default would not entitle a landlord to eject the tenant under the Act, then it would have said so expressly either by way of an explanation or otherwise in clause (ii) of s. 9(1) of the Act. Finally, we cannot lose sight of the explanation used for the various clauses of s. 9(1) which runs thus :

> "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 the execution of decree or order, directing him to pay such arrears of rent."

While the explanation takes care to define as to when a tenant would be deemed to be in arrears and fixes a period of two months, indeed if the intention of the legislature was that a single default in

payment of rent could be condoned, it should have included this incident also in the explanation. This provides, therefore, the most important intrinsic circumstance to support the interpretation which we have put on clause (ii) of s.9(1) of the Act and which invalidates the reasons given by the High Court.

For the reasons given above, we are satisfied that the High Court took an erroneous view of law in interpreting clause (ii) of s. 9(1) of the Act as the tenants have been proved, in this case, to have committed default in the payment of rent for Kharif 1961, they must be held to have failed to pay the rent regularly without sufficient cause as envisaged by clause (ii) and are, therefore, legally entitled to ejectment. The view taken by the High Court is legally erroneous and cannot be supported. In Civil Appeal No. 1319 of 1970, an objection was taken by the appellant that the appeal had abated as the heirs of respondent No. 1, Ganga Ram, were not brought on record. This objection has been overruled and we have allowed substitution as per our separate order dated 28th April 1980. The result is that the appeals are allowed, the judgment of the High Court is set aside and the order of the Collector directing ejectment of the tenants is restored. The writ petitions filed by tenants before the High Court stand dismissed and the one filed by the appellant against Kalu Ram stands allowed. In the circumstances of the case, there will be no order as to costs.

S. R. Appeals allowed.