

The Punjab Security of Land Tenures Act, 1953

(Punjab Act No. 10 of 1953)

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[Received the assent of the President on the 15th April 1953, and was first published in the Punjab Government Gazette (Extraordinary) of the 15th April, 1953.]

An Act to provide for the security of land tenure and other incidental matters.

It is hereby enacted as follows:—

1. Short title, extent and commencement.— (1) This Act may be called the Punjab Security of Land Tenures Act, 1953.

For Punjab only

Section 28 of the Punjab Land Reforms Act, 1972, is reproduced as under :—

-Repeal and Saving.— “28. (1) The Punjab Security of Land Tenures Act, 1953, and the Pepsu Tenancy and Agricultural Lands Act, 1955, insofar as these as inconsistent with the provisions of this Act, are hereby repealed.

(2) The repeal of the enactments mentioned in sub-section (1) hereinafter referred to as the said enactments, shall not affect—

- (i) the proceedings for the determination of the surplus area pending immediately before the commencement of this Act, under either of the said enactments, which shall be continued and disposed of as if this Act had not been passed and the surplus area so determined shall vest in, and be utilised by the State Government in accordance with the provisions of this Act :

Provided that such proceedings shall, as far as may be, continued and disposed of, from the stage these were immediately before the commencement of this Act, in accordance with the procedure specified by or under this Act [and the cases pending before the Pepsu Land Commission immediately before the date of commencement of this Act shall stand transferred to the Collector of the district concerned for disposal:]

Provided further that nothing in this section shall affect the determination and utilisation of the surplus area other than the surplus area referred to above in accordance with the provisions of this Act:

- (ii) the previous operation of the said enactments or anything duly done or suffered thereunder :
- (iii) any right, privilege, obligation or liability acquired, accrued or incurred under the said enactments, insofar as such right, privilege obligation or liability is not inconsistent with the provisions of this Act and any proceeding or remedy in respect of such right, privilege, obligation or liability may be instituted, continued or enforced as if this Act had not been passed:

Provided that such proceeding or remedy shall, as far as may be, be instituted, continued or enforced in accordance with the procedure specified by or under this Act.”]

- (2) It shall come into force at once.
- (3) It shall extend to the whole of the State of Punjab. ¹[Principal Territories in Haryana]
- ²[(4) Save as elsewhere expressly provided in this Act nothing contained therein shall apply to co-operative garden colonies were registered before the coming into force of this Act.]

Comments

Object of the Act—

(i) Provide a ‘permissible area’ of 30 standard acres to be a landowner/tenant, which he can retain for self-cultivation.

(ii) Provide security of tenure to tenants by reducing their liability to ejection as specified in Section 9.

(iii) Ascertain surplus areas and ensure re-settlement of ejected tenants on those areas.

(iv) Fix maximum rent payable by tenants, and

(v) Confer rights on tenants to pre-empt and purchase their tenancies in certain circumstances.” *Gurbax Singh v. State of Punjab*, AIR 1964 SC 502 ; see also *Ajmer Singh v. State of Haryana*, 1990 PLJ 116 SC

2. Definitions.— In this Act, unless the context otherwise requires,—

(1) “Landowner” means a person defined as such in the Punjab Land Revenue Act, 1887 (Act XVII of 1887), and shall include an “allottee” and “lessee” as defined in clauses (b) and (c), respectively, of section 2 of the East Punjab Displaced Persons (Land Resettlement) Act, 1949 (Act XXXVI of 1949), hereinafter referred to as the “Resettlement Act”.

Explanation.— In respect of land mortgaged with possession, the mortgagee shall be deemed to be the landowner.

(2) “Small landowner” means a landowner whose entire land in the State of Punjab does not exceed the “permissible area”.

Explanation.—In computing the area held by any particular landowner the entire land owned by in the State of Punjab, as entered in the record-of-rights

¹ The words ‘State of Punjab’ substituted vide Haryana Adaptation of Laws, 1968.

² Substituted by Punjab Act 11 of 1955.

shall be taken into account, and if he is a joint owner only his share shall be taken into account.

¹[(3) "Permissible area" in relation to a landowner or a tenant, means thirty standard acres and where such thirty standard acres on being converted into ordinary acres exceed sixty acres, such sixty acres:-

Provided that:—

- (i) no area under an orchard at the commencement of this Act, shall be taken into account in computing the permissible area.
- (ii) for a displaced person —
 - (a) who has been allotted land in excess of fifty standard acres, the permissible area shall be fifty standard acres or one hundred ordinary acres, as the case may be;
 - (b) who has been allotted land in excess of thirty standard acres, but less than fifty standard acres, the permissible area shall be equal to this allotted area;
 - (c) who has been allotted land less than thirty standard acres, the permissible area shall be thirty standard acres, including any other land or part thereof, if any, that he owns in addition.]

²[*Explanation*. — For the purposes of determining the permissible area of a displaced person, the provisions of proviso (ii) shall not apply to the heirs and successors of the displaced person to whom land is allotted.]

(4) "Reserved area" means the area lawfully reserved under the ³[Punjab Tenants (Security of Tenures) Act, 1950 (Act XXII of 1950)] as amended by President's Act of 1951 hereinafter referred to as the "1950 Act" or under this Act.

(5) "Standard acre" means a measure of area convertible into ordinary acres of any class of land according to the prescribed scale with reference to the quantity of yield and quality of soil.

⁴[(5-a) "Surplus area" means the area other than the reserved area, and where no area has been reserved, the area in excess of the permissible area selected ⁵[under section 5-B or the area which is deemed to be surplus area under sub-section (1) of section 5-C] ⁶[and includes the area in excess of the permissible area selected under Section 19-B], but it will not include a tenant's permissible area:

Provided that it will include the reserved area, or part thereof, where such area or part has not been brought under self-cultivation within six months

1 Substituted by Punjab Act 11 of 1955.

2 Added by Punjab Act No. 14 of 1962 and shall be deemed to have come into force on the 15th April, 1953,- vide section 1(2) of the Act 11 of 1955.

3 Repealed by Section 28 of this Act.

4 New clause (5-a) added by Punjab Act 11 of 1965.

5 Substituted for the words "as prescribed by Punjab Act No. 46 of 1957, section 2.

6 Inserted by Punjab Act No. 14 of 1962 and shall be deemed to have come into force on the 30th July, 1958. Clause 5(a) shall be deemed to have been inserted with effect from the 15th April, 1958,- vide section 10 of Punjab Act No. 46 of 1957.

of reserving the same or getting possession thereof after ejecting a tenant from it whichever is 'later, or if the landowner admits a new tenant, within three years of the expiry of the said six months.

(6) "Tenant" has the meaning assigned to it in the Punjab Tenancy Act, 1887 (Act XVI of 1887), 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.

(7) "Year" means an agricultural year as defined in Section 4 of the Punjab Tenancy Act, 1887 (Act XVI of 1887).

(8) "Land" all other terms used, but not defined in this Act, shall have the same meaning as are assigned to them in the Punjab Tenancy Act, 1887 (Act XVI of 1887).

¹[(8-A) "Non-Resident Indian" means a person of Indian origin who is either permanently or temporarily settled outside India, in either case :—

- (a) for or on taking an employment outside India; or
- (b) for carrying on a business or vocation outside India; or
- (c) for any other purpose, in such circumstances as would indicate his intention to stay outside India for an uncertain period.]

²[(9) "Self-cultivation" means cultivation by a landowner either personally or through his wife or children, or through such of his relations as may be prescribed, or under his supervision.]

(10) "Prescribed" means prescribed by rules made under this Act.

(11) "Displaced person" has the meaning assigned to it in the East Punjab Displaced Persons (Land Resettlement) Act, 1949 (Act XXXVI of 1949).

Comments

Computation of permissible area—

(1) The relevant date for determining is 15th April, 1953, the date on which the Act came into force and not the date on which the eviction application was filed

(2) if a person is a small landowner at the commencement of the Act his statute is not altered by reason for improvements in the value of his land or reallocation of land on compulsory consolidation of holdings

(3) Banjar Kadim, Banjar Jadid and Gair Mumkin land cannot be taken into account while computing the permissible area and surplus area under the Act

(4) The Banjar Qadim and Banjar Jadid land do not fall within the purview of land under the Act

(5) The permissible area under the substantive part of Sec. 2(3) for a person who is not displaced person is sixty ordinary acres

(6) The concept of standard acres being a measure of area convertible into ordinary acres if any land according to prescribed scales with reference to the quantity of the yield and quality of Soil has been introduced in the definition of permissible

¹ Inserted by Punjab Act 6 of 1998.

² Substituted by Punjab Act 11 of 1955.

area to emphasise the qualitative aspect of land holding and the maximum limit of sixty acres is its quantitative aspect. *Ajmer Singh v. State of Haryana, 1990(1) SCC 227*

3. Reservation of land by small landowners.— Any small landowner, who by virtue of an allotment made after the commencement of this Act under the Administration of Evacuee Property Act, 1950 (Act XXXI of 1950), comes to hold more than the permissible area of land, may select out of the entire area held by him as a landowner in the State of Punjab, ¹[Principal Territories in Haryana], a parcel or parcels of land not exceeding in aggregate the permissible area and reserve it by intimating his reservation in the prescribed form and manner, to be Patwari of the estate in which the land reserved is situate, or to such other authority as may be prescribed, before expiry of six months from the date of his obtaining possession of the land so allotted:

Provided that he shall include in his reservation, to the extent of the permissible area, whatever land he had under self-cultivation immediately before the commencement of this Act.

4. Fresh reservation of land due to modification of allotment.— Any landowner who has made lawful reservation of land under the 1950 Act, and whose allotment is modified or revised after the commencement of this Act, under the Administration of Evacuee Property Act, 1950 (Act XXXI of 1950), shall be entitled to make a fresh reservation before the expiry of six months from the date of his obtaining possession of the land so allotted.

Provided that in making his fresh reservation he shall include to the extent of the permissible area firstly the land he has under self-cultivation and secondly such land out of his previous reservation, as has not passed out of his possession as a result of the said revision or modification of allotment.

5. Reservation of land.— (1) Any reservation before the commencement of this Act, shall cease to have effect and subject to the provisions of Sections 3 and 4 any landowner who owns land in excess of the permissible area may reserve out of the entire land held by him in the State of Punjab as landowner, any parcel or parcels not exceeding the permissible area intimating his selection in the prescribed form and manner to the patwari of the estate in which the land reserved is situate or to such other authority may be prescribed.

Providing that in making this reservation he shall include his area owned in the following order —

- (a) area held in a Co-operative Garden Colony,
- (b) area under self-cultivation at the commencement of this Act other than the reserved area,
- (c) reserved area excluding the area under a jhundimar tenant or a tenant who has been in continuous occupation for 20 years or more immediately before such reservation.
- (d) area or share in a Co-operative Farming Society,

¹ For Haryana - Substituted by Haryana Adaptation of Laws Order, 1968.

- (e) any other area owned by him,
- (f) area under a jhundimar tenant.

(2) Where in respect of any land more than one person can be classed as landowners, as in the case of persons one of whom is a landowner in principal and the other in derivative capacity, the aforesaid right of reservation shall be exercised by the landowner who receives or is entitled to receive rent directly from the tenant in actual in actual cultivation of the land.

(3) A landowner shall be entitled to intimate a reservation within six months from the date of commencement of this Act, and no reservation so intimated shall be varied subsequently whether by act of parties or by operation of law, save with the consent in writing of the tenant affected by such varification or until such time as the right to eject such tenant otherwise accrues under the provisions of this Act.

¹[(4) [***]]

(5) [***]]

²[**5-A. Declaration supported by affidavits to be furnished by certain landowners and tenants.**— Every landowner or tenant, who owns or holds land in excess of the permissible area and where land is situated in more than one Patwar circle, shall furnish, within a period of six months from the commencement of the Punjab Security of Land Tenures (Amendment) Act, 1957, a declaration supported by an affidavit in respect of the lands owned or held by him in such form and manner and to such authority as may be prescribed.

5-B. Selection of permissible area and consequences of failure to select.— (1) A landowner who has not exercised his right of reservation under this Act, may select his permissible area and intimate the selection to the prescribed authority within the period specified in Section 5-A and in such form and manner as may be prescribed:

Provided that a landowner who is required to furnish a declaration under Section 5-A shall intimate his selection along with that declaration.

(2) If a landowner fails to select his permissible area in accordance with the provisions of sub-section (1), the prescribed authority may subject to the provisions of Section 5-C, select the parcel or the parcels of land which such person is entitled to retain under the provisions of this Act:

Provided that the prescribed authority shall not make the selection without giving the landowner concerned an opportunity of being heard.

Comments

The main purpose of the Act seems to be to (i) provide a 'permissible area' of 30 standard acres to landowner/tenant which he can retain for self cultivation; (ii) provide security of tenure to tenants by reducing their liability to ejectment as specified in S. 9; (iii) ascertain surplus area and ensure resettlement of ejected tenants

1 Sub-clauses (4) and (5) omitted by Punjab Act No. 57 of 1953.

2 Sections 5A, 5B and 5C inserted by Punjab Act No. 46 of 1957, section 3.

on those areas; (iv) fix maximum rent payable by tenants; and (v) confer rights on tenants to pre-empt and purchase their tenancies in certain circumstances. *Gurbax Singh v. State of Punjab*, AIR 1967 SC 502.

¹[5-C. **Penalty for failure to furnish declaration.**—(1) If a landowner or tenant fails to furnish the declaration supported by an affidavit as required by Section 5-A, the prescribed authority not below the rank of Collector may, by order direct that the whole or part of the land of such landowner or tenant in excess of ten standard acres to be specified by such authority shall be deemed to be the surplus area of such landowner or tenant and shall be utilised the State Government for the purpose mentioned in Section 10-A.

Provided that no such order shall be made without giving the landowner or tenant concerned an opportunity of being heard.

(2) Where a landowner or tenant who is required to furnish a declaration under Section 5-A fails so to do, the prescribed authority may in respect of him obtain the information required to be shown in the declaration through such agency as it may deem fit].

²[6. **Certain previous transfers of land not to affect rights of tenants.**—No transfer of land, except a bona fide sale or mortgage with possession or a transfer resulting from inheritance made after the 15th August 1947 and before the 2nd February, 1955, shall affect the rights of the tenant on such land under this Act.

7. ³[***]

⁴[8. **Continuity of tenancies.**— The continuity of a tenancy shall not be affected by —

(a) the death of the landlord; or

1 Section 11 of Punjab Act No. 14 of 1962, reads as follows :

“Validation 11. Notwithstanding anything contained in this Act or the rules made thereunder or in any other law for the time being in force or in any judgment decree or order of any Court or other authority,—

(a) where the surplus area in respect of the land owned by a Hindu undivided family referred to in clause (a) of section 19-E of the principal Act, has been determined under that Act at any time before the commencement of this Act by any authority competent to determine such area, whether by ignoring the partition of any such land made after the commencement of the principal Act or otherwise, such determination shall be valid and shall be deemed always to have been valid and shall not be questioned on the ground that the descendants of the landowners constituting with him the Hindu undivided family were landowners in their own right in respect of their shares in such land or on the ground that the partition had been ignored;

(b) where an order under sub-section (2) of section 5-B or sub-section (1) of section 5-C, in respect of the surplus area of any person, has been passed by a Revenue Officer exercising the powers of a Collector purporting to act as the prescribed authority, such order shall be valid and shall be deemed always to have been valid and shall not be questioned on the ground that it was not passed by the prescribed authority.

2 Substituted by Punjab Act No. 14 of 1962, Section 3.

3 Section 7 omitted by Punjab Act No. 11 of 1955.

4 Section 8 substituted by Punjab Act No. 11 of 1955.

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

Comments

Section 8--Suit primarily based on the cause of wrongful dispossession--In a suit filed under Section 6 of the Specific Relief Act, a plaintiff may not stake any claim with regard to right, title or interest whatsoever--He has simply to prove that he was in possession and had been dispossessed within six months from the date the suit was filed--Civil Court has jurisdiction to entertain and try the suit. *Maha Singh v. Vidya Devi*, 1998(3) ICC (Ph. & Hry.) 351 : 1998(2) PLR 605

9. Liability of tenant to be ejected.—¹[(1) Notwithstanding anything contained in any other law for the time being in force²[no landowner other than a landowner who is a member of the Armed Forces of the Union or a Non-Resident Indian] 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 landowner, [or]³
- (ii) fails to pay rent regularly without sufficient cause; [or]⁴
- (iii) is in arrears of rent at the commencement of this Act; [or]⁵
- (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]⁶
- (v) has used, or uses the land comprised in his tenancy in a manner which has rendered, or renders it unfit for the purpose of which he holds it; [or]⁷
- (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]⁸
- (vii) refuses to execute a Qabuliyat or a Pata 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 landowner.

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

1 Substituted for sub-sections (1) and (2) of Section 9 by Punjab Act No. 11 of 1955 and existing sub-section (3) renumbered as sub-section (2).

2 Substituted vide Punjab Act 6 of 1998.

3 Added by Punjab Act No. 32 of 1959, section 2.

4 Section 7 omitted by Punjab Act 11 of 1955.

5 Added by Punjab Act No. 32 of 1959, section 2.

6 Added by Punjab Act No. 32 of 1959, section 2.

7 Added by Punjab Act No. 32 of 1959, section 2.

8 Added by Punjab Act No. 32 of 1959, section 2.

of notice of the 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 only if the area of his tenancy under the landowner concerned is in excess of the area from which he can be ejected by the said landowner:

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

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.

Comments

Section 9(1)(i)--Eviction--Co-sharer-- Petitioner in a declaratory suit claiming to be a tenant cannot claim to be a co-sharer in eviction proceedings--Claim of eviction sustained by Revenue Authorities--No interference required. *Rugha Ram v. Financial Commissioner, Revenue, Haryana, 2001(3) ICC (Pb. & Hry.) (D.B.) 544 : 2001(2) PLR 53*

Section 9(1)(i)--Eviction--Plea of respondent of being a co-sharer and not tenant--Not sustainable as he already stands declared as tenant in another civil suit against him--Claim of the landowner for eviction of tenant sustained of concurrent finding of the fact that he is a small landowner. *Rugha Ram v. Financial Commissioner, Revenue, Haryana, 2001(3) ICC (Pb. & Hry.) (D.B.) 204: 2001(2) PLR 53*

Tenant--Ejection of--Non payment of rent--Whether a single default in payment of rent would be sufficient to order ejection--Held, yes--Even a single default falls within the mischief of Section 9(1)(ii) and would make the tenant liable for ejection. *Surinder Singh v. Financial Commissioner, Punjab, 2001(1) ICC (Pb. & Hry.) (D.B.) 481*

Tenant--Ejection of--Non payment of rent--Held, though it is true that the law is heavily loaded in favour of tenant, yet it is also clear that the law expects the tenant to pay regularly--A default can be condoned only if sufficient cause is shown and not otherwise. *Surinder Singh v. Financial Commissioner, Punjab, 2001(1) ICC (Pb. & Hry.) (D.B.) 481*

Sections 9, 12, 14 and 14A--Non-payment of Rent--Eviction--Tenant/Petitioner contending that the application filed by the land owners for their eviction from the land is not maintainable and deserves rejection because of their failure to avail the remedy under Sections 17 and 18 of Punjab Tenancy Act--Held, no merit in the contention of the tenants as firstly the said point was never raised before the learned Single Judge and secondly remedy under Sections 17 and 18 of Punjab Tenancy Act is not an alternative remedy to seek ejection of the Tenant--Also in order to avail the protection of the Act of 1953 and the Rules, the tenant must fulfill their obligations under the Act i.e. to pay rent regularly otherwise he must be ready to face the

consequences of the same--Learned Single Judge rightly refused to interfere with the pure finding of fact recorded by the Financial Commissioner on the issue of default. *Gian Chand v. The F.C., Hry., Chd. (Pb. & Hry.)(D.B.) 609*

Sections 9 and 14A--Whether the order of eviction passed against the respondent-tenant is vitiated and is liable to be set aside merely because the appellant landlord had initiated proceedings under Punjab Tenancy Act and not under Punjab Security of Land Tenures Act--Learned Single Judge held that the landlord having initiated proceedings under Section 77 of the Punjab Tenancy Act and not under Section 14A of the Security of Land Tenures Act, the orders passed by revenue courts in untenable--Held, failure to pay rent is one of ground of eviction under Section 9 of Punjab Security of Land Tenures Act--Hence ground for eviction is clearly made out--Order of learned Single Judge is unsustainable--Eviction order passed by revenue court is liable to be restored. *Fauqira v. Khem Chand, 1999(2) ICC (Pb. & Hry.)(D.B.) 585*

¹[9-A.— No tenant liable to ejectment under clause (i) of sub- section (1) of the section next preceding shall be dispossessed of his tenancy unless he is accommodated on a surplus area in accordance with the provisions of section 10-A or otherwise on some other land by the State Government.

Provided that if the tenant concerned is the tenant of a small landowner, he shall be allowed to retain possession of his tenancy to the extent of five standard acres including any other land which he may hold as tenant or owner, until he is so accommodated on a surplus area or otherwise;

Provided further, that if a tenancy commences after the commencement of this Act, and the tenant is also an owner and is related to his landlord in the manner prescribed, he shall not be entitled to the benefit of this section:]

²[**Punjab Amendment**]

³[Provided further that the tenant of the landowner who is a member of the Armed Forces of the Union ⁴[or a Non-Resident Indian] shall also not be entitled to the benefit of this section.]

Comments

Section 9-A--Petitioners holding more than 5 standard acres in Haryana and owning land in Punjab also cannot be termed as poor tenants lacking other source of livelihood--No equity in their favour-- No interference with the concurrent findings of the Courts below. *Rugha Ram v. Financial Commissioner, Revenue, Haryana, 2001(3) ICC (Pb. & Hry.) (D.B.) 544; 2001(2) PLR 53*

1 New section 9-A added by Punjab Act 11 of 1955.

2 Added by Punjab Act No. 28 of 1969, section 2.

3 Added by Punjab Act No. 28 of 1969, section 2.

4 Inserted by Punjab Act 6 of 1998.

¹[**9-B. One time concession.**— The concession given under sections 9 and 9-A to the land-owner who is a Non-Resident Indian shall be one time concession and shall be available only in respect of the land acquired or held by him before the commencement of the Punjab Security of Land Tenures (Amendment) Act, 1997.]

[For Haryana only]

²[**Section 9B.**— Benefit to the members of Armed Forces - A person who is a tenant of a landowner who —

- (a) that a member of the Armed Force of the Union of India and stands retired or discharged from the Armed Forces; or
- (b) is a widow or a minor child of a member of the Armed Forces, who died while-in-service, shall not be entitled to the benefit under the proviso to section 9-A.

Provided that the application for ejectment is made within period of one year from the date of the retirement, discharge or death or from the date of the commencement of the Punjab Security of Land Tenures (Haryana Amendment Ordinance 1984) whichever is later.]

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 ³[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 this ejectment, 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

1 Inserted by Punjab Act No. 6 of 1998.

2 Added by Haryana Act 24 of 1984.

3 Substituted by Punjab Act 57 of 1953.

stayed on receipt of information by that court or authority from such Assistant Collector of the fact of having received the application and also 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 landlord 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 landowner or other person, if any, as the case may be.

¹[10-A. **Surplus area for resettlement of ejected tenants.**— (a) The State Government or any officer empowered by it in this behalf, shall be competent to utilise any surplus area for the resettlement of tenants ejected, or to be ejected, under clause (i) of sub-section (1) of Section 9.

(b) Notwithstanding anything contained in any other law for the time being in force² [and save in the case of land acquired by the State Government under any law for the time being in force or by an heir by inheritance] no transfer or other disposition of land which is comprised in surplus area, at the commencement of this Act, shall affect the utilisation thereof in clause (a).

Explanation.— Such utilisation of any surplus area will not affect the right of the landowner to receive rent from the tenant so settled.]

³[(c) For the purpose of determining the surplus area of any person under this section any judgment, decree, or order of a court or other authority, obtained after the commencement of this Act and having the effect of diminishing the area of such person which could have been declared as his surplus area shall be ignored.]

Comments

Section 10-A and 19-B—The gifts made by landowners who exceeded their permissible area having come by additional lands by inheritance are to be ignored or taken into account when computing the surplus area in their hands, having regard to S. 19-B read with S. 10-A. S. 10-A does not militate against this mandate of S. 19-B. S. 10-A(a) is wide in its terms and encompasses all surplus area, however, obtained. Under S. 10-A(b), lands acquired by an heir by inheritance are saved in so far as dispositions of such lands are concerned. Although in the hands of the propositus, it is surplus land, if among the heirs it is not, then their transfers will not be affected by the interdict of S. 10-A(a). There is no conflict between S. 10-A and S. 19-B. *State of Haryana v. Sampuran Singh, AIR 1975 SC 1952.*

1 Section 10-A added by Punjab Act 11 of 1955 and shall always be deemed to have been inserted with effect from 15.4. 1953, vide section 10 of Punjab Act No. 14 of 1962.

2 Inserted by Punjab Act No. 4 of 1959, section 2.

3 Clause (c) added with effect from the 15.4. 1953 vide by Punjab Act No. 14 of 1962.

Section 10-A(c), 18--Other authority--Meaning of --Includes officer under Section 18. Per majority --The object of S. 10-A(c) cannot be fulfilled unless the widest meaning were given to the expression "court or other authority". "Other authority" is very other authority within or without the Act. The other authorities in S. 10-A(c) include officer under S. 18. The plain meaning of S. 10-A(c) is that any order by any authority which shrinks the surplus area of the landlord is invalid to the extent laid down in the clause. *State of Punjab v. Amar Singh, AIR 1974 SC 994.*

S.10-A(b)--"Transfer" -- [Per majority, Sarkaria, J. Contra:] --The expression "transfer" is wide enough to cover transfers by operation of law unless expressly excluded. Special exclusions to save transfers by way of inheritance and compulsory land acquisition by State have been made which would have been supererogatory had involuntary transfers automatically gone out of the pale of S. 10-A(b). Hence S. 10-A(b) would apply to transfer by operation of law under S. 18. *State of Punjab v. Amar Singh, AIR 1974 SC 994.*

S. 10-A(b)--Consent order--Scope--(Per majority):--Where a compromise goes against a public policy, prescription of a statute or a mandatory direction to the Court to decide on its own certain foundational facts a razi cannot operate to defeat the requirement so specified or absolve the court from the duty. The resultant order will be ineffective. Any authority, like the Collector enjoined to apply S. 10-A(b) and (c) may decline to act on a compromise which has ripened into an order if the agreement between the parties disposes of property in violation of a statutory mandate. Strictly speaking, collusive razis cannot affect the State which has the right to utilise surplus lands for resettling tenants. The public policy of S. 10-A cannot be outwitted by consent orders calculated to defeat the provision and without the statutory authority charged with the enquiry being satisfied about the bona fides of and eligibility for the purchase. *State of Punjab v. Amar Singh, AIR 1974 SC 994.*

¹[10-B. Saving by inheritance not to apply after utilisation of surplus area.— Where succession has opened after the surplus area or any part thereof has been utilised under clause (a) of section 10-A, the saving specified in favour of any heir by inheritance, under clause (b) of that section shall not apply in respect of the area so utilised.]

Comments

Sections 10-A and 10-B--Process of utilisation of Surplus area when complete--Held: While allotment of land is an initial stage in the process of utilisation of the "surplus area", it does not complete that process as it is necessary for the allottee to obtain a certificate of allotment, take possession of the land within the period specified for the purpose, and to execute "quabuliyat" or "patta" in respect thereof as required by Rules 20-A to 20-C of the Rules of 1956. S. 10-A(b) has the effect of saving the land, comprised in the "surplus area", if it has been acquired by an heir by inheritance. So when the process of utilisation of the deceased's "surplus area" had not been completed by the time his heirs by inheritance made the application under S. 10-A(b) and S. 10-B to the authorities concerned, it was permissible for those authorities to re-examine the question whether there was any "surplus area" at all after the holding had been inherited by his two heirs in equal shares so as to reduce the area of the holding of each one of them below the permissible area. *Financial Commissioner v. Haryana State, Kala Devi, AIR 1980 SC 309.*

¹ New section 10-B inserted with effect from the 15.4.1953, by Punjab Act No. 14 of 1962.

11. Tenant's right to water.— Save in proportion to a reduction in the tenancy, if any, a landowner shall not be competent to curtail or terminate the supply of canal or use of well water enjoyed by a tenant immediately before the commencement of this Act, and a breach of this provision shall constitute a cognizable offence punishable with imprisonment which may extend to six months and shall be triable by a court not below the rank of a Second Class Magistrate.

12. Amount of maximum rent.— (1) Notwithstanding anything contained in the Punjab Tenancy Act, 1887 (Act XVI of 1887), or in any agreement or usage or any decree or order of a court, the maximum rent payable by a tenant for any land held by him as such shall not exceed one-third of the crop of such land or the value thereof as determined in the prescribed manner, and where the customary rent is less than one-third, the maximum rent shall be such customary rent.

(2) In computing the maximum rent payable by a tenant, such portion of the rent, if any, as represents the consideration for services or facilities provided by the landowner in relation to the land shall not be taken into account.

13. Assessment of charges for services or facilities provided by the landowner.— Unless the charges payable for services or facilities provided by landowner in relation to the land have been specifically provided for in an agreement between the parties, such charges shall be determined by the Assistant Collector, First Grade, having jurisdiction, who shall give due regard to the usage of the locality and if there is no such usage, he shall give regard, amongst other matters to —

- (a) the direct advantage gained by the land by the provision of such services or facilities;
- (b) the condition or nature of the services or facilities and the probable duration of their effects;
- (c) the labour or capital required for the provision of such services or facilities.

14. Duty of landowner to furnish receipt for rent received from tenant.— Every landowner shall give or cause to be given a valid receipt to the tenant in the form prescribed for the rent received by him or on his behalf.

(2) Any landowner who fails to give or cause to be given such receipt shall on conviction be punishable with a fine which may extend to one hundred rupees.

¹[**14-A. Procedure for ejectment and recovery of arrears of rents etc.**— 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 landowner desiring to eject a tenant under this Act shall apply in writing to the Assistant Collector, First Grade, having jurisdiction, who shall

¹ Section 14-A added by Punjab Act, 11 of 1955.

thereafter proceed as provided for in sub-section (2) of 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 tenant's rights to compensation and acquisition of occupancy rights, if any, under the Punjab Tenancy Act, 1887 (XVI of 1887) shall not be affected.

¹[For Haryana only]

²[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 the 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 landowner 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 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 landowner refuses to accept rent from his tenant or demand 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 within this Act, or give a receipt, as the case may be, or both, within 60 days of the receipt of the notice.]

Comments

S. 14-A--Difference between Cl. (i) and Cl. (ii)--Clause (ii) of S. 14-A deals with eviction as punishment for non-compliance with the orders of the Court. Clause (i) deals with evictions for any of the reasons given in S. 9(1). One such reason is that the tenant had failed to pay rent regularly without sufficient cause. Eviction under the second clause is for failure to carry out the orders to deposit arrears of rent within the time fixed for payment and eviction under the first clause is a penalty for not paying the rent regularly without sufficient cause. The clauses are on different footing and as the scheme of the Act itself shows different tribunals determine the two issues. *Kapur Chnd v. B.S. Grewal, F.C., Punjab, AIR 1965 SC 1491.*

Section 14-A--Eviction-- Default in payment of rent--Notice--Petitioners admitted their liability before the Collector--They were aware of the amount due which they

1 Added by Haryana Act No. 5 of 1991.

2 Added by Haryana Act No. 5 of 1991.

had to pay--In such a situation, the question of issuing any notice in any form to them did not arise--Since they failed to comply with the terms of the compromise, as recorded by the Collector, they were liable to be evicted. *Manohar v. Financial Commissioner, Haryana, 2001(3) ICC (Ph. & Hry.) (D.B.) 220 : 2001(2) PLR 149*

Section 14-A--Eviction--Default in payment of rent--Landlord had chosen the lengthy procedure of a suit u/s 77 of the Punjab Tenancy Act instead of a comparatively easier and summary procedure as envisaged under the provisions of the Punjab Security of Land Tenures Act, 1953--Since no prejudice caused, proceedings not liable to be annulled. *Manohar v. Financial Commissioner, Haryana, 2001(3) ICC (Ph. & Hry.) (D.B.) 220: 2001(2) PLR 221*

Section 14-A(i)--Ejectment of tenants--Application filed on the ground for failure to pay rent without sufficient cause--Dismissed by Assistant Collector Grade-I holding that due to pendency of an earlier dispute, the landlords could not file application for payment of 'Batai'--Appeals filed by the landlords before the Collector were allowed--Collector remanded the cases to the Assistant Collector for determination of sufficient cause for non-payment of 'Batai' @ 1/3rd and effect of non-execution of 'Qabuliayat Nama'--Challenged--Commissioner decided that the appeals are not competent but treated the same as revisions and recommended to the Financial Commissioner that the plea of the landowners be accepted--Financial Commissioner did not agree with the Commissioner and remanded the case back--Commissioner dismissed the appeals on the ground that relationship of landlord and tenants had come to an end with the passing of order of ejectment in other proceedings--Present writ filed--Held, the findings recorded by the Assistant Collector, the Collector, the Financial Commissioner and the learned Single Judge that there was no sufficient cause for non-payment of rent by the tenants affirmed--The orders passed by the Financial Commissioner remanding the case to Commissioner--Quashed--Directions given to the Financial Commissioner to decide the revision petitions filed by the petitioners on merits after hearing the parties. *Kishan Chand v. Financial Commissioner, 1999(3) ICC (Ph. & Hry.) (D.B.) 501*

Section 14-A(ii)--Eviction--Default in payment of Rent--Held that the petitioner, even though Dohlidar, was a landowner and was entitled to recover Rent from the tenants inducted and if the tenants had failed to pay the same, nor had shown sufficient cause for non-payment thereof, they were liable to be evicted from the land in dispute. *Mandir Darbari Lal Ji, Meham v. Financial Commissioner, Haryana, Chandigarh, 1997(2) ICC (Ph. & Hry.) 790 : 1997(1) PLR 827 : 1997(1) Rent L.R. 677*

15. ¹[***]

²[16. **Saving of tenancies from effect of mala fide transfer.**—Save in the case of land acquired by the State Government under any law for the time being in force, or by an heir by inheritance, no transfer or other disposition of land effected after the 1st February, 1955, shall affect the rights of the tenant thereon under this Act.]

17. Right of certain tenants to pre-empt sale etc. of land.—Notwithstanding anything to the contrary contained in any law, usage or contract and subject

1 Omitted by Punjab Act No. 32 of 1958, section 3.

2 Substituted by Punjab Act No. 11 of 1955.

to the provision of Section 18, a tenant of a landowner other than a small landowner:—

- (i) who has been in continuous occupation of the land comprised in his tenancy for a period exceeding four years on the date of the sale of the land or foreclosure of the right to redeem the land, or
- (ii) in case of a sale or foreclosure that has taken place or shall take within a period of three years from the commencement of this Act and there is no tenant who has acquired a right under clause (i);
 - (a) who was ejected from tenancy after the 14th day of August, 1947, and before the commencement of this Act on grounds other than those mentioned in Section 9, and was in continuous occupation of the land comprised in his tenancy for a period exceeding four years on the date of his ejectment, or
 - (b) who has been restored to his tenancy under the provisions of this Act and whose period of continuous occupation of the land comprised in his tenancy immediately before ejectment and immediately after restoration of his tenancy together exceed four years,

shall, in preference to the right of other pre-emptors as provided in the Punjab, Pre-emption Act, 1913 (Act I of 1913) except the descendants of vendor's grandfather, be entitled to pre-empt the sale or foreclosure of the land other than the land comprised in the reserved area of the landowner in the manner prescribed in that Act within one year from the date of the sale or foreclosure, as the case may be:

Provided that no tenant referred to in this sub-section shall be entitled to exercise any such right in respect of the land or any portion thereof, if he had sublet the land or the portion, as the case may be, to any other person unless during that period the tenant was suffering from a legal disability or physical infirmity, or if a woman, was a widow or was unmarried.

¹[17-A. **Certain sales of tenancy land not pre-emptible.**— (1) Notwithstanding anything to the contrary contained in this Act or the Punjab Pre-emption Act, 1913, a sale of land comprising the tenancy of a tenant made to him by the landowner shall not be pre-emptible under the Punjab Pre-emption Act, 1913, and no decree of pre-emption passed after the commencement of this Act in respect of any such sale of land shall be executed by any court :

Provided that for the purposes of this sub-section the expression tenant includes a joint tenant to whom whole or part of the land comprising the joint tenancy is sold by landowner.

(2) Where-after the commencement of this Act, a tenant, to whom the land comprising his tenancy is sold by the landowner has been dispossessed of such land by a pre-emptor in execution of a decree for pre-emption or otherwise the tenant so dispossessed shall in the prescribed manner have the option either to purchase the land from the pre-emptor on payment of the

¹ Section 17-A and 17-B, inserted by Punjab Act No. 4 of 1959.

price paid to the tenant by the pre-emptor or to be restored to his tenancy under the pre-emptor on the same terms and conditions on which it was held by him immediately before the sale, on an application made by him to an Assistant Collector of the first grade having jurisdiction within a period one year from the commencement of the Punjab Security of Land Tenures (Amendment) Ordinance, 1958.

(3) An application received under sub-section (2) shall be disposed of by the Assistant Collector of the first grade in the manner laid down in sub-section (2) of section 10.

17-B. Certain mortgagees to be deemed tenants under the Act.— (1) Where after the commencement of this Act, land comprising the tenancy of a tenant is mortgaged to him with possession by the landowner and such land is subsequently redeemed by the landowner, the tenant shall, notwithstanding such redemption or any other law for the time being in force, be deemed to be the tenant of landowner in respect of such land on the same terms and conditions on which it was held by him immediately before the execution of the mortgage as if the mortgage had never been executed.

(2) Where a tenant referred to in sub-section (1) has been dispossessed by the landowner in execution of a decree or order of redemption, he shall be entitled to be restored to his tenancy in the prescribed manner on the same terms and conditions on which it was held by him immediately before the execution of the mortgage on an application made by him to an Assistant Collector of the first grade having jurisdiction within a period of one year from the commencement of the Punjab Security of Land Tenures (Amendment) Ordinance, 1958.

(3) An application received under sub-section (2) shall be disposed of by the Assistant Collector of the first grade in the manner laid down in sub-section (2) of section 10.

18. Rights of certain tenants to purchase land. — (1) Notwithstanding anything to the contrary contained in any law, usage or contract a tenant of a landowner other than a small landowner—

- (i) who has been in continuous occupation of the land comprised in his tenancy for ¹[a minimum period of six years], or
- (ii) who has been restored to his tenancy under the provisions of this Act and whose periods of continuous occupation of the land comprised in his tenancy immediately before ejection and immediately after restoration of his tenancy together ²[amounts to six years or more], or
- (iii) who was ejected from his tenancy after the 14th day of August, 1947, and before the commencement of this Act, and who was in

1 Substituted by Punjab Act 11 of 1955 for the words "a period of twelve years".

2 Substituted by Punjab Act 11 of 1955 for the words "exceed twelve years".

continuous occupation of the land comprised in his tenancy for a period, ¹[of six years or more immediately before his ejection],

shall be entitled to purchase from the landowner the land so held by him but not included in the reserved area of the landowner, in the case of a tenant falling within clause (i) or clause (ii) at any time, and in the case of a tenant falling within clause (iii) within a period of one year from the date of commencement of this Act:

Provided that no tenant referred to in this sub-section shall be entitled to exercise any such right in respect of the land or any portion thereof if he had sublet the land or the portion, as the case may be, to any other person during any period of his continuous occupation unless during that period the tenant was suffering from a legal disability or physical infirmity, or, if a woman, was a widow or was unmarried:

Provided further that if the land intended to be purchased is held by another tenant who is entitled to pre-empt the sale under the next preceding section, and who is not accepted by the purchasing tenant, the tenant in actual occupation shall have the right to pre-empt the sale.

(2) A tenant desirous of purchasing land under sub-section (1) shall make an application in writing to an Assistant Collector of First Grade having jurisdiction over the land concerned, ²[***], and the Assistant Collector, after giving notice to the landowner and to all other persons interested in the land and after making such inquiry as he thinks fit, shall ³[determine] the value of land which shall be the average of the prices obtaining for similar land in the locality during 10 years immediately preceding the date on which the application is made.

⁴[(3) The purchase price shall be three-fourths of the value of the land as so determined.

(4) (a) The tenant shall be competent to pay the purchase price either in a lump sum or in six monthly instalments not exceeding ten in the manner prescribed.

(b) On the purchase price or the first instalment thereof, as the case may be, being deposited, the tenant shall be deemed to have become the owner of the land, and the Assistant Collector shall, where the tenant is not already in possession, and subject to the provisions of the Punjab Tenancy Act (XVI of 1887) put him in possession thereof.

1 Substituted by Punjab Act 11 of 1955 for the words "exceeding twelve years on the date of his ejection".

2 The words "for determining the value of such land", omitted by Punjab Act 11 of 1955.

3 Substituted for the word "fix" by Punjab Act No. 11 of 1955.

4 Sub-sections (3) and (4) substituted by Punjab Act No. 11 of 1955.

(c) If a default is committed in the payment of any of the instalments, the entire outstanding balance shall, on application by the person entitled to receive it, be recoverable as arrears of land revenue.]

(5) If the land is subject to a mortgage at the time of the purchase, the land shall pass to the tenant unencumbered by the mortgage, but the mortgage debt shall be a charge on the purchase money.

(6) If there is no such charge as aforesaid the Assistant Collector shall subject to any directions which he may receive from any Court, pay the purchase money to the landowner.

(7) If there is such a charge, the Assistant Collector shall, subject as aforesaid, apply in the discharge of the mortgage debts so much of the purchase money as is required for that purpose and pay the balance, if any, to the landowner, or retain the purchase money pending the decision of a Civil Court as to the person or persons entitled thereto.

Comments

Section 18(1)(i)--In order to claim a right of purchase as against the landowner under S. 18(1)(i), the minimum period of six years should have been completed at the time when the application for purchase by the tenant is made, and it is not necessary that he should have been a tenant of the land on April 15, 1953 when the Act came into force. Provided the other conditions are satisfied, such a tenant will be entitled to purchase the land. *Saheb Ram v. F.C.*, AIR 1971 SC 198.

Section 18(1), 18(2) and 24--Under S. 18, a tenant is only entitled to purchase land which is not included in the reserved or selected area of the landowner. Under S. 18(2) the Assistant Collector is only authorised to determine the value of the land after making such enquiries as he thinks fit. He is not expressly authorised to go into the question whether the land sought to be purchased is included in the reserved or selected area of the landowner or not. But, obviously it must be the intention that he should go into these questions before embarking on determining the price. *Surja v. Hardeva*, AIR 1970 SC 1193.

Section 18--A sub-tenant cannot apply under the Act to purchase the land from the landlord. *Jaimal v. The Financial Commissioner, Punjab*, AIR 1969 SC 392.

Section 18--Civil Court--Jurisdiction of--Suit for possession in respect of land measuring a bighas and 15 biswas--Wrongly certified by Astt. Collector that defendants were in possession as tenant of land measuring 19 bighas & 10 biswas whereas infact they were in possession of only 8 bighas of land--Question of jurisdiction of Civil Court arose--Held, once the genuineness of the document declaring the defendants in possession of such land is in dispute, civil court has the jurisdiction. *Brij Pal v. Bhudar*, 1999(4) ICC (PB. & Hry.) 477

Section 18--Trial Court decreed the suit for possession of the plaintiff/tenant--Appellate court allowed the appeal only to the extent of possession of father of defendant for 8 bighas--Said area was included in the mutation which was sanctioned in favour of the father--Statement of Assistant Collector that defendants were in possession of 19 bighas & 10 biswas found to be wrong--Land occupied by the plaintiff went to the defendants during consolidation which took place during the pendency of the suit--After the mutation, the names of the tenants removed from the revenue records--Held, therefore it were the defendants who were dislodged and that the land belonged to the plaintiffs and was included in mutation sanctioned in favour of father of defendant--Appeal dismissed. *Brij Pal v. Bhudar*, 1999(4) ICC (PB. & Hry.) 477

19. Sections 17 and 18 not to apply to certain property and tenants.— Nothing contained in Section 17 or Section 18 shall affect any land which is evacuee property, as defined in the Administration of Evacuee Property Act, 1950 (XXXI of 1950) ¹[***] or any other land which may at any time be acquired by the Central Government for resettlement of displaced persons.

²[**19-A. Bar of future acquisition of land in excess of permissible area.**— (1) Notwithstanding anything to the contrary in any law, custom, usage, contract or agreement, from and after the commencement of the Punjab Security of Land Tenures (Amendment) Ordinance, 1958, no person, whether landowner, or tenant, shall acquire or possess by transfer, exchange, lease, agreement or settlement any land, which with or without the land already owned or held by him, shall in the aggregate exceed the permissible area :

Provided that nothing in this section shall apply to land belonging to registered Cooperative Societies formed for purposes of co-operative farming if the land owned by an individual member of the society does not exceed the permissible area.

(2) Any transfer, exchange, lease, agreement or settlement made in contravention of the provisions of sub-section (1) shall be null and void.]

19-B. Future acquisition of land by inheritance, in excess of permissible area.— (1) ³[Subject to the provisions of Section 10-A, if after the commencement of this Act, any person, whether as landowner or tenant, acquires by inheritance or by bequest or gift from a person to whom he is an heir and land, or if after the commencement of this Act and before the 30th July, 1958, any person has acquired by transfer, exchange, lease, agreement or settlement any land, or if, after such commencement, any person acquires in any other manner any land, which, with or without the lands already owned or held by him, exceeds in the aggregate the permissible area then he shall, within the period prescribed, furnish to the Collector, a return in the prescribed form and manner giving the particulars of all lands and selecting the land not exceeding in the aggregate the permissible area which he desires to retain, and if the land of such person is situated in more than one patwar circle, he shall also furnish a declaration required by Section 5-A.

1 The words "at the commencement of this Act" omitted by Punjab Act No. 32 of 1959, section 4.

2 Section 19A, 19B, 19C and 19D inserted by Punjab Act No. 4 of 1959, section 4.

3 Substituted for the words "if after the commencement of this Act, any person, whether as land owner or tenant, acquires by inheritance or bequest or gift from a person to whom he is an heir any land or if after the commencement of this Act and before the 30th July, 1958, any person has acquired by transfer, exchange, lease, agreement or settlement any land" by Punjab Act No. 14 of 1962, section 6 with effect from the 30th July, 1958.

(2) If he fails to furnish the return and select his land within the prescribed period, then the Collector may in respect of him obtain the information required to be shown in the return through such agency as he may deem fit¹ [and select the land for him in the manner specified in sub-section (2) of Section 5-B.]

(3) If such person fails to furnish the declaration, the provisions of Section 5-C shall apply.

(4) The excess land of such person shall be at the disposal of the State Government for utilisation as surplus area under clause (a) of Section 10-A or for such other purposes as the State Government may by notification direct.

Comments

Sections 19A and 19B--Acquisitions--Fallow land--Fallow lands brought under cultivation--Question arose whether such change brings about an acquisition to the existing holding of the landowners when those lands were already owned by him--Held, that the intendment of the Act is that in whatever manner the evaluation of the holdings gets improved, that is outside the scope of acquisition for such an act of improvement is not an acquisition in terms of Sections 19A and 19B Punjab Security of Land Tenures Act. *Gopal Ram v. State of Haryana, 1999(3) ICC (SC) 442*

19-C. Power to cause delivery of possession of surplus area.— The Collector may from time to time by order in writing direct the landowner or the tenant to deliver possession of the land in his surplus area to the person resettled on such land by the State Government or any officer empowered by it within ten days of the service of the order on him.

(2) If the landowner or the tenant refuses or fails without reasonable cause to comply with an order made under sub-section (1) the Collector may cause the possession of the land in the surplus area to be delivered to the person resettled on it and may for that purpose use such force as may be necessary.

19-D. Exemption of certain lands.— The provisions of this Act shall not apply to lands granted to any member of the Armed Forces of the Union for gallantry.

²[**19-DD. Exemption of lands granted for gallantry before 26th January, 1950.**— Notwithstanding anything contained in this Act, where any land is granted for gallantry, at any time before the 26th day January, 1950, to any member of the Armed Forces, whether maintained by the Central Government or by any Indian State, then, so long as such land or any portion thereof, as the case may be, has not passed from the original grantee into more than three successive hands, by inheritance or bequest, and is held by the grantee, or any such hands, such land or portion as the case may be, shall not

1 Added by Punjab Act No. 14 of 1962, with effect from the 30th July, 1958, vide section 6(2) and 1(2).

2 Inserted by Punjab Act No. 12 of 1968, section 2 and shall be deemed always to have been inserted.

be taken into account in computing the surplus area under this Act, nor shall any tenant of such land or portion have the right to purchase it under Section 18:

Provided that where such land or portion has passed into more than three such hands and the person holding such land or portion, immediately before the 3rd August, 1967, is a person to whom it has passed by inheritance or bequest, the exemption under this section shall apply to such land or portion thereof, as the case may be, during the life time of such person.]

For Haryana only

¹[19-DD. **Further exemption of certain lands.**— Notwithstanding anything contained in this Act where any land is granted for gallantry, at any time before the 26th day of January, 1950 to any member of the Armed Forces, whether maintained by the Central Government, or by any Indian State, then, so long as such land or any portion thereof, as the case may be, has not passed from the original grantee into more than three successive hands by inheritance or bequest, and is held by the grantee or any such hands, such land or portion as the case may be shall not be taken into account in computing the surplus area under this Act, nor shall any tenant of such land or portion have the right to purchase it under Section 18:

Provided that where such land or portion, as the case may be, has passed into more than three such hands and the person holding such land or portion, immediately before the commencement of the Punjab Security of Land Tenures (Haryana Amendment) Act, 1967, is a person to whom it has passed by inheritance or bequest, the exemption under this section shall apply to such land or portion thereof, as the case may be, during the life time of such person.]

²[19-E. **Land owned by Hindu undivided family to be deemed land of one landowner.**— Notwithstanding anything contained in this Act or in any other law for the time being in force —

- (a) where, immediately before the commencement of this Act, a landowner and his descendants constitute a Hindu undivided family the land owned by such family shall, for the purposes of this Act, be deemed to be the land of that landowner and no descendant shall, as member of such family, be entitled to claim that in respect of his share of such land he is a landowner in his own right; and
- (b) a partition of land owned by a Hindu undivided family referred to in clause (a) shall be deemed to be a disposition of land for the purposes of Sections 10-A and 16.

Explanation.— In this section, the expression “descendant” includes an adopted son.

1 Inserted by Haryana Act No. 12 of 1967.

2 Inserted by Punjab Act No. 14 of 1962 with effect from the 15th April, 1953.

19-F. Removal of certain doubts.— For the removal of doubts it is hereby declared —

- (a) that the State Government or any officer empowered in this behalf shall be competent and shall be deemed always to have been competent, to determine in the prescribed manner the surplus area referred to in Section 10-A of a landowner immediately before the commencement of this Act; and
- (b) that for evaluating the land of any person at any time under this Act, the land owned by him immediately before the commencement of this Act, or the land acquired by him after such commencement by inheritance or by bequest or gift from a person to whom he is an heir, shall always be evaluated for converting into standard acres as if the evaluation was being made on the date of such commencement, and that the land acquired by him after such commencement in any other manner shall always be evaluated for converting into standard acres as if the evaluation was being made on the date of such acquisition.

20. Restriction on tenants.— Nothing contained in this Act shall entitle a tenant to purchase land in excess of the permissible area, including the land which he may already own.

21. Saving of tenants and lessees under Government.— ¹[(1) Nothing contained in this Act shall affect any land held by a tenant or lessee under Government, or local bodies in the State, or any unallotted evacuee land.

(2) The provisions of Sections 9, 9-A and 18 shall not apply to lands leased out by the Punjab State Co-operative Land Mortgage Bank Limited established under the Punjab Co-operative Land Mortgage Banks Act, 1957.]

Comments

Surplus area--Evacuee property--Evacuee property is excluded from computation so long that land remains evacuee property--Once the land is allotted to a person it becomes his property and it loses the character of being evacuee property--Subsequent acquisition of the land by appellant under Section 14B of the Punjab Security of Land Tenures Act and excess land recomputed--No illegality in the order--Haryana Ceiling of Land Holding Act, 1972, Section 32. *M/s. Saraswati Industrial Syndicate v. State of Haryana*, 2001(4)ICC (Supreme Court) 572

Section 21(1)--Shamlat deh--Lease--Eviction--Tenancy--A person in possession of Shamlat deh as lessee from the Gram Panchayat becomes unauthorised occupant on expiry of term of lease unless the term of lease is extended or renewed or fresh lease granted--Such person is liable to be ejected under Section 7 of the Punjab Village Common Lands Act, 1961 and is not entitled to the protection of Section 21(1) of the Punjab Security of Land Tenures Act, 1953 as the Panchayat Lands have been excluded from its purview. *Fatia v. B.R. Anand*, 1998(3) ICC (Pb. & Hry.)(D.B.) 17 : (1998)2 PLR 495

Section 21--Tenancy--Holding over tenant--Rent--Non payment of--Consequences--Tenant in possession of the property--Transferred--Held, the tenancy

¹ Section 21 renumbered as sub-section (1) of that section and after sub-section (1) so renumbered a new sub-section (2) . Added by Punjab Act No. 14 of 1962, section 8.

of the tenant does not come to an end automatically--He would be deemed to be in possession as tenant unless there was an elevation in his status--Payment of rent is not necessary--Only Agreement to pay is sufficient under which it becomes tenant by implication of law. *Amar Nath v. Kabal Singh*, 2000(4)ICC (Pb. & Hry.) 360

Section 21--Tenancy--Rent--Non payment of--Receipts--Held, if the tenant is holding receipts of rent paid to the landlord but the landlord pleads that the said receipts do not relate to the property in question under tenancy, it is for the landlord to prove as to which property the same is related to and if not to the property in possession of the tenant. *Amar Nath v. Kabal Singh*, 2000(4)ICC (Pb. & Hry.) 360

¹[21-A. Power to remove difficulties by modifications of provisions in certain cases.—(1)The State Government may, for the purpose of preventing or removing any hardship or difficulty, by a special or general order, to be notified in the official Gazette direct that any of the provisions of this Act shall apply to any class of tenants or owners, with such modifications, as may be specified in that order.

(2) Any order made under sub-section (1) shall be laid before ²[***] the Legislature during the session next following after the making of such order, and unless the said order is approved by ³[***] the Legislature, with or without modification, it shall cease to have effect.]

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Any order made under sub-section (1) shall be made before the (house of legislature) during the session next following after the making of such order and unless the said order is approved by (house of legislature) with or without modification it shall cease to have effect.

⁴[22. Procedure for ejectment.— Any dispute relating to rent payable by a tenant, or any objection relating to the permissible area, not otherwise expressly provided for in this Act, shall be determined in a summary manner as provided for in section 14-A; provided that the order of the Commissioner, in appeal or revision in the ordinary course, shall be final.

23. Abrogation of pending decrees, orders and notices.— No decree or order of any court or authority and no notice of ejectment shall be valid, save to the extent to which it is consistent with the provisions of this Act.

24. Appeal, review and revision.— The provision in regard to appeal, review and revision under this Act shall, so far as may be, be the same as provided in Sections 80, 81, 82, 83 and 84 of the Punjab Tenancy Act, 1887 (Act XVI of 1887).

Comments

Section 24--Land declared surplus by the Consolidation Officer--Review petition filed--Not allowed--Order of Financial Commissioner challenged--Banjar Qadim land

1 Section 21-A added by Punjab Act 11 of 1955.

2 The words "both the Houses of" omitted by the Adaptation of Punjab Laws Order, 1970.

3 The words "both the Houses of" omitted by the Adaptation of Punjab Laws Order, 1970.

4 Substituted by Punjab Act 11 of 1955.

not excluded--Allegation of inclusion of land of other owner also not considered--Review of order declaring surplus wrongly refused--Order set aside. *Parma Nand v. State of Haryana, 1997(4) ICC (Pb. & Hry.) 889*

¹[**24-A. Power to separate share of landowners in join lands.**— (1) Where a landowner owns land jointly with other landowners and his share of such land or part thereof as ascertained from the record of rights, has been or is to be declared as surplus area, the officer competent to declare such area, or, where such area has been declared the officer competent to utilise it, may on his own motion, after summary enquiry and affording to the persons interested in such land an opportunity of being heard, separate his share of such land or part thereof in the land owned by him jointly with other landowners.

(2) Where, after the declaration of the surplus area of any person and before the utilisation thereof, his land has been subjected to the process of consolidation, the officers referred to in sub- section (1) shall be competent to separate the surplus are of such person out of the area of land obtained by him after consolidation.]

25. Exclusion of Courts and authorities.— Except in accordance with the provisions of this Act, the validity of any proceedings or order taken or made under this Act shall not be called in question in any Court or before any other authority.

26. Indemnity.— No suit or other legal proceedings shall lie against any authority in respect of anything done in good faith in pursuance of the provisions of this Act.

27. Power to make rules.— The State Government may by notification in the Official Gazette make rules for carrying out the purposes of this Act.

28. Repeal and Savings.— The Punjab Tenants (Security of Tenures) Act, 1950 (Act XII of 1950), and the Punjab Tenants (Security of Tenures) Amendment Act, 1951 (President's Act V of 1951), are hereby repealed but, notwithstanding such repeal and notwithstanding the expiry of the Prevention of Ejectment (Temporary Powers) Ordinance, 1952, anything done or any action taken in the exercise of any power conferred by or under this said Acts or the said Ordinance to the extent of its being consistent with the provisions of this Act, shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act, as if this Act was in force on the day on which such thing was done or action taken.

¹ Section 24-A inserted by Punjab Act 14 of 1962, section 9.