

(2003) 07 P&H CK 0053

High Court Of Punjab And Haryana At Chandigarh

Case No: Regular Second Appeal No. 2223 of 1982

Saudagar Singh

APPELLANT

Vs

Punjab State and Another

RESPONDENT

Date of Decision: July 23, 2003

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Section 9
- Punjab Land Revenue Act, 1887 - Section 158, 3(8), 78

Citation: (2003) 135 PLR 710 : (2004) 1 RCR(Civil) 421

Hon'ble Judges: Ashutosh Mohunta, J

Bench: Single Bench

Advocate: Dhillon, for the Appellant; H.P.S. Gill, DAG, for the Respondent

Final Decision: Dismissed

Judgement

Ashutosh Mohunta, J.

The short question that arises for determination in the present appeal is:-

Whether a Village Officer (Lambardar) can be declared a "defaulter" u/s 3 (8) of the Punjab Land Revenue Act, 1887 or not ? If whether he can be arrested for non-deposit of the land revenue collected by him?

2. Saudagar Singh appellant who was Lambardar of village Dhianpur was arrested on account of non-deposit of the arrears of land revenue by him. He challenged his arrest and filed a suit for declaration to the effect that his arrest by the authorities was illegal, ultra vires and uncalled for as he could not be considered as a defaulter u/s 3(8) of the Punjab Land Revenue Act, 1887 (for short "the Act"). The Sub Judge, Ist Class, Amritsar, vide judgment dated December 8, 1979 decreed the suit of the plaintiff and declared his arrest as illegal. On appeal filed by the State of Punjab the Additional District Judge, Amritsar dismissed the suit of the plaintiff-appellant vide judgment dated April 30, 1982, and it was held that the appellant was a defaulter in

view of the definition contained in Section 3(8) of the Act. Saudagar Singh has filed the present appeal to challenge the judgment and decree passed by the Additional District Judge, Amritsar.

3. Sub-section (8) of Section 3 of the Act is to the following effect:-

"(8) "defaulter" means a person liable for an arrear of land revenue and includes a person who is responsible as surety for the payment of arrear; and a village officer who collects the land revenue or any other sum recoverable as land revenue and does not pay the same to the State Government in accordance with the rules framed under the Act."

A bare look at the afore-mentioned definition of the "defaulter" under the Act would show that it includes "a village officer who collects the land revenue or any other sum recoverable as land revenue and does not pay the same to the State Government..." As the appellant has failed to deposit the arrears of land revenue collected by him, he was liable to be declared as a "defaulter" under the Act. Consequently, his arrest for non-deposit of the arrears of land revenue cannot be held to be an illegal act on the part of the State authorities.

4. In case the appellant claimed himself not liable to make payment of the land revenue, he could challenge the order of the revenue authorities only if he had deposited the arrears of land revenue first and thereafter sought the relief from the Civil Court. Such is the requirement of Section 78 of the Act. He could not file the suit in the Civil Court without first depositing the arrears of land revenue. Otherwise, as per Section 158 of the Act, the jurisdiction of the Civil Court was barred.

5. In view of the above, I do not find any infirmity in the well-reasoned judgment delivered by the learned Additional District Judge, Amritsar, and I uphold the same.

6. Consequently, there is no merit in the present appeal. It is, accordingly, dismissed. However, there shall be no order as to costs.