**(1973) 10 P&H CK 0003**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** Letters Patent Appeal No. 583 of 1971

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| Sham Kaur | | APPELLANT |
| | Vs | |
| The Financial Commissioner, Revenue, Punjab, Chandigarh, and others | | RESPONDENT |

**Date of Decision:** Oct. 31, 1973

**Acts Referred:**

- Punjab Security of Land Tenures Act, 1953 - Section 14A(ii)

**Citation:** (1973) 10 P&H CK 0003

**Hon'ble Judges:** Pritam Singh Pattar, J; D.K. Mahajan, J

**Bench:** Division Bench

**Advocate:** K.L. Jagga, for the Appellant; H.L. Sarin with Mr. M.L. Sarin, for the Respondent

**Final Decision:** Allowed

**Judgement**

D.K. Mahajan, J.
This judgment will dispose of Letters Patent Appeals Nos. 583 and 584 of 1971. We have dealt with them by a common judgment because the question of law as well as of fact which arises in both these appeals is the same.

2. There is no dispute of facts. The repondent No. 3 in L.P.A. No. 583 of 1971, viz., Gurdip Singh and respondent No. 3 in L.P.A. No. 584 of 1971, viz., Ranjit Singh, are tenants of land belonging to the appellant Smt. Sham Kaur. They were in arrears of rent and Smt. Sham Kaur moved two applications u/s 14A (ii) of the Punjab Security of Land Tenures Act, 1953 (hereinafter referred to as the Act) against these tenants for recovery of rent. These applications were in Form M prescribed under the rules framed under the Act. The prayer in the applications was for the payment of arrears of rent for certain harvests. Notices in Form " N " were issued by the Assistant Collector to the tenants directing them to appear before him and either show that they were not in arrears of rent

or pay the arrears of rent within thirty days from the date of the said order failing which they would render themselves liable for ejectment. The tenants contested their liability to pay any arrears of rent and ultimately the Assistant Collector found that a sum of Rs. 1164.22 P. was due from Ranjit Singh and a sum of Rs. 3019.71 P. was due from Gurdip Singh. These amounts were not deposited by the tenants within the time allowed. They, however, took recourse to appeals and further appeals and obtained stay of eviction from the various authorities before whom they were prosecuting their appeals. As the amounts were not deposited as required by the Assistant Collector within the time specified in the notice in Form N, and order of eviction was passed against them. They then moved this Court by filing writ petitions under Articles 226 and 227 of the Constitution of India, praying that the order of eviction was illegal inasmuch as the proceedings having been stayed by the appellate as well as the revisional authorities, the period of thirty days would run from the final order in revision or in appeal. These petitions were challenged by Smt. Sham Kaur and the stand taken by her was that the order of the Assistant Collector in Form N was final order so far as the time for deposit was concerned and that period could not be extended or re-granted by either the appellate authority or the revisional authority. The learned Single Judge, who dealt with these petitions, relying on the decision of the Supreme Court in Dattaraya Tawalay Vs. Shaikh Mahboob Shaikh Ali and Another, , held that the anthorities below were in error in taking the view that the deposit had to be made within the time allowed by the Assistant Collector in Form N, i.e., thirty days from the date of the said order and as held by this Court, thirty days from the date of the order of the Assistant Collector in case the amount of arrears of rent was disputed Thana Singh and others v. Financial Commissioner, Punjab Ali 1969 PLJ 194, against the decision of the learned Single Judge in both the writ petitions, the landlady has preferred the present two appeals.

3. The contention of Mr. Jagga, learned counsel for the landlady, is that the period prescribed in the notice in Form "N" is a statutory period and that period cannot be extended. He maintains that there is no provision in the Act which permits extension of that period. This matter is, however, not res integra. This Court has consistently taken the view that the period for deposit mentioned in the notice in Form "N" or the one prescribed in Thana Singh"s case cannot be extended by the appellate or the revisional authority; See in this connection Dhanna v. Siri Parkash (1962) 64 PLR 810, Gurbakhsh Singh v. Bakhtawar Singh 1962 Cur LJ P&H 287, Atma Singh and another v. The Financial Commissioner 1964 PLJ 67, Amar Nath v. Hans Raj 1966 PLJ 1, and Thana Singh v. Financial Commissioner, Punjab and others 1969 PLR 194.

4. It is, no doubt, true that the decision of the Supreme Court in Dattatraya"s case (supra) was not considered in these decisions because when these judgments were rendered, this decision was not in the field. We have examined the Supreme Court decision and find that it does not apply to the facts of the present case. It is not a case where time is fixed by the Court. The notice in Form "N" prescribes the time and that time by reason of the statutory provision was given a different terminus a quo in Tirana Singh"s case. All the

same it remains a statutory requirement to which the provisions of section 148 of the CPC do not apply. There is no provision in the Act which permits extension of this time. In fact the provisions of this Act are analogous to those of the Rent Restriction Act. If a tenant is in arrears and does not pay the arrears at the first hearing, he suffers eviction and there is no power either in the appellate authority or in the revisional authority to permit him to deposit rent at a subsequent date. Same is the scheme of section 14-A of the Act. In order to save himself from eviction it is incumbent on the tenant to pay the amount within the time prescribed in the notice or the extended time by reason of this Court''s decision in Thana Singh''s case (supra) i.e., from the date of the order of the Assistant Collector fixing the amount of arrears of rent. In either event, it is the Assistant Collector whose action starts the statutory period of limitation for deposit or the extended period of limitation for deposit. But, in appeal or revision, that power cannot be exercised. The decision of the Supreme Court, on which the learned Single Judge relied, was rendered in a pre-emption case. The relevant provision of the Pre-emption Act, namely, section 22, provides that the amount of 1/5th may be deposited within the time specified by the Court or such time as the Court may extend. Therefore, it was rightly held that the appellate Court could extend time. It is axiomatic that what the trial Court can do, the appellate Court can do as well. See in this connection section 157 of the Code of Civil Procedure. That being the position, the facts of the Supreme Court decision have no analogy to the facts of the present case. Mr. Sarin, learned counsel for the respondents, relies on (Lala) Gobind Prasad Vs. (Lala) Jugdip Sahay, and Darbeshwari Singh Vs. Raghunath Pd. Singh and Others, . These decisions have no bearing so far as the present controversy is concerned. We have to give effect to the statutory provision and keeping in view the consistent course of decisions of this Court on this matter, we have no option but to hold that the appellate as well as the revisional authorities had no power to extend the time for deposit of the arrears of rent.

5. For the reasons recorded above, we allow both these appeals, set aside the decision of the learned Single Judge and dismiss the writ petitions filed by the respondents. There will be no order as to costs.