on the assessee was invalid at law as copy of the notice was not affixed at any conspicuous place in hte court-house or at any conspicuous place in the income-tax office. The matter for decision before the Full Bench was absolutely different. The learned counsel cannot derive any benefit from that case. In view of the aforesaid discussion, we are of the opinion that the words 'issue' and 'serve' are interchangeable and that the word 'issue' has been used in section 148 of the 1961 Act in the same sense in which the word 'serve' has been used.

(5) It is stated that an appeal has been filed against the order, dated March 21, 1974 of the Income-tax Officer and the same is still pending. The writ petition was admitted to interpret the word 'issue' as occurring in section 148 of the 1961 Act only. The appeal will be decided by the appellate authority in accordance with law. The petition is disposed of accordingly with no order as to costs.

MAN MOHAN SINGH GUJRAL, J.—I agree.

N. K. S.

CIVIL MISCELLANEOUS

Before B. R. Tuli and A. S. Bains JJ.

KAHNA RAM, SON OF PHULA RAM AND OTHERS,—*Petitioners*

versus

LATHA SINGH AND OTHERS,—*Respondents.*

Civil Writ No. 3712 of 1968
and
Civil Misc. No. 3111 of 1971.

November 7, 1974.

East Punjab Utilization of Lands Act (XXXVIII of 1949)—Sections 5, 6, 7 and 14-Lands leased out for 20 years under the Act—Land owner—Whether has locus standi to apply to the Collector for determination of the Lease for default of the lessee—Rejection of such application by the Collector—Appeal against—Whether lies—Lease of the land determined by the Collector—Such land—Whether can be restored to the land owner before the expiry of the 20 years in spite of the omission of the words "Or its earlier termination" in section 7.

Held, that it is clear from a perusal of the provisions of sections 5, 6 and 7 of the East Punjab Utilization of Lands Act, 1949, that the landowners whose land has been leased out under the Act have no legal right to ask for the restoration of the land to them before the expiry of the period of lease of 20 years, but there is no bar to the Collector restoring the possession of the leased land to the landowners even before such expiry, if he considers advisable, in the circumstances of the case, that is, if the lessee abandons the land or his lease is terminated by the Collector on account of the defaults committed by him in carrying out the terms of the lease or for any other reason, the land ceases to be under the tenancy of any lessee. It is, therefore. open to a landowner to bring it to the notice of the Collector that a certain lessee has committed default in carrying out the terms of the lease, which entitles the Collector to determine that lease. It is for the Collector then to investigate the matter and to determine the lease or not on the facts of each case. Hence a landowner has the *locus standi* to make an application to the Collector bringing to his notice the facts that the lessee of his land has commited a default in carrying out the conditions of his lease as a result of which the lease can be determined. In fact, any person having any interest in the land can move such an application to the Collector for necessary action.

Held, that the expression "aggrieved person" as used in section 14 of the Act has a number of meanings and the matter has to be decided in each case as to whether a person, who claims to file an appeal, is an 'aggrieved person' or not. When a person is given a right to raise a contest in a certain matter and his contention is negatived, then he is certainly aggrieved by the order disallowing his contention. Where the landowners whose land has been leased out under the Act, have the right to inform the Collector that the lessees have committed a default or defaults in carrying out the terms of the lease as a result of which the lease in their favour should be determined and if that contention of theirs is disallowed by the Collector, they naturally are "aggrieved persons" and have the right to file an appeal against the order of the Collector refusing to determine the lease.

Held, that the words "on the expiry of the lease" in section 7 of the Act denote the stage when the land ceases to be under the tenancy of any person, whether by termination of the lease or by abandonment by the lessee or in any other manner. When the lease is determined earlier than the expiry of the full term because of the default committed by the lessee, it expires and comes to an end. Thereafter, another lease in favour of somebody else may be created by the Collector, if he is so minded or he may restore the land to the landowner in case he is satisfied that he is in a position to cultivate the same. Hence, the mere omission of the words "or its earlier termination" from section 7 of the Act does not mean that the landowner has no right to pray to the Collector for the restoration of his

land before the expiry of the period of 20 years even when the lease in favour of a lessee is determined by the Collector because of the defaults committed by him.

Case referred by Hon'ble Mr. Justice Ranjit Singh Sarkaria,—vide *order, dated* **17th February,** 1971 *to a larger Bench for decision of an important question of law involved in the case. The Division Bench consisting of Hon'ble Mr. Justice Bal Raj Tuli and Hon'ble Mr. Justice Ajit Singh Bains, after deciding the question of law referred to returned the case for decision on merits to the Single Judge,*—vide *order, dated November* 11, 1974.

Petition under Articles 226 *and* 227 *of the Constitution of India praying that a writ in the nature of Certiorari, or any other appropriate writ, order or direction be issued quashing the order, dated* 28*th November*, 1968 (*contained in Annexure* 'D') *passed by the Judge*,—vide *order, dated November* 11, 1974.

C.M. No. 3111 *of* 1971. ... .

Application under Order 6, *Rule* 17 *praying that the petitioners be permitted to amend the writ petition by adding the following plea in paragraph No.* 7 *as ground No. viii.*

> "*(viii) That section* 6 *of the East Punjab Utilisation of Lands Act violates Article* 14 *of the Constitution of India on the reasoning given by the Supreme Court in Northern India Caterers' case A.I.R.* 1967 *Supreme Court* 1581 *as the Collector can choose either to proceed under this section or to proceed under the regular manner in the revenue court for the eviction of the lessees. The amendment made by the Haryana State by Act No.* 33 *of* 1969, *in the Punjab Public Premises and Land (Eviction and Rent Recovery) Act,* 1959 *has not achieved its object and the said section* 6 *is still* ultra-vires *and no action can be taken against the petitioners under section* 6 *of the said Act.*"

N. L. Dhingra, Advocate, *for the petitioners.*

M. M. Punchhi, Advocate, (Suresh Amba, Advocate, with him), *for respondents* 1 *to* 3.

C. D. Dewan, Additional Advocate-General, Haryana, *for respondents* 4 *to* 6.

ORDER OF DEVISION BENCH

Judgment of the Court was delivered by: —

TULI, J.—These writ petitions Nos. 3712 of 1968 (*Kahna Ram and others* v. *Latha Singh and others*), 3757 *of* 1968 (*Kishan Singh and others* v. *Pritam Singh and others*), 3758 *of* 1968 (*Sant Singh and others* v. *Gurbakhsh Singh alias Gurbachan Singh and others*), 425 of 1969 (*Waryam Singh and another* v. *Bharpur Singh and others*), 427 *of* 1969 (*Shmt. Ishwari and others* v. *Chuhar Singh and others*) *and* 428 *of* 1969 (*Dewa Singh and another* v. *Chand Singh and others*) have been placed before us for deciding the question of law as to the interpretation of the provisions of sections 6 and 7 of the East Punjab Utilization of Lands Act, 1949, as amended from time to time (hereinafter called the 'Act') touching upon the competency of a landowner to make an application under section 6 and in the event of result going against him, to prefer an appeal under section 14 and the jurisdiction of the Collector and the Commissioner for deciding such an application and appeal, in pursuance of the order of reference made by a learned Single Judge on February 17, 1971. In order to decide the point, the facts of C.W. 3712 of 1968 may be stated.

(2) The land measuring 105 acres, which was lying Banjar Qadim and uncultivated, belonging to respondents 1, 2 and 3 was acquired by the State of Punjab through the Collector, Hissar, under the Act in the revenue estate of Shekhu Khera, Tahsil Sirsa, District Hissar, in 1958, and was leased out to the petitioners for a period of 20 years on August 4, 1958. The lease-deed between the Collector and the petitioners was drawn up in which the rent fixed was Rs. 2.50 Paise per acre per year. Under the terms of the lease, the lessees were required to reclaim half of the land within a period of six months and the remaining half within a period of one year from the date of the lease. The land used to be flooded by the Ghaggar river, and on February 15, 1959, the petitioners made an application to the Collector that the land, being under water, could not be reclaimed and consequently, some other land may be given to them. On that application, the Tahsildar informed the petitioners that the Government was undertaking the construction of Ghaggar Barrage and Bundhs on both sides of the river with a view to tame it. The work for taming the river was completed in 1963 and thereafter the petitioners reclaimed the land and sowed it with Rabi crop in October and November, 1963. This

crop was to mature in April, 1964, and on December 16, 1963, the landowners, that is respondents 1, 2 and 3, made applications to the Collector stating that the petitioners, as lessees, had failed to cultivate the land within the stipulated period and in consequence their leases were liable to be terminated. A prayer was made for the termination of those leases. The Collector forwarded those applications to the Tahsildar, Sirsa, to obtain a report from the Patwari The latter, without issuing any notice to the petitioners, made an *ex parte* report to the effect that the land was still *banjar qadim* and had not been broken till then. On receipt of the report from the Tahsildar, the Collector, without complying with rule 5 of the Punjab Utilisation of Lands Rules, 1950, put up the following note to the Collector, Hissar, for orders: —

"Placed below are six applications (details given in the margin) from the landowners of village Shekhu Khera, Tahsil Sirsa, for the release of their land on the grounds that the lessees who were allotted lands on lease for 20 years under the East Punjab Utilization of Lands Act have neither settled in the village nor brought the land under cultivation. All these applications are of similar nature and their facts are the same.

Enquiries made through the Tahsildar, Sirsa, in the matter revealed that the facts contained in the applications are correct. The copies of Khasra Girdawari placed on the file also clearly lead to show that the land is lying Banjar at the spot. It is clear that the lessees have violated the conditions of lease by not reclaiming the land for a period of more than six years and for these reasons their leases are likely to be cancelled.

The Sub-Divisional Officer, Sirsa, has also been delegated the powers of the Collector, under the East Punjab Utilization of Lands Act, and we may, therefore, request him to utilise this land for allotment on lease to some other genuine landless Harijans provided the same is lying Banjar at the spot, but in case it has been brought under cultivation by the landowners, it may be released in their favour."

The Collector, Hissar, pased the following orders on February 22, 1964, on the above office note: —

"I agree to the action proposed. The Sub-Divisional Officer should be further clearly advised to satisfy himself

> thoroughly before releasing the land because the experience shows that generally the owners get wrong report made in such cases to get undue advantage."

The papers were then sent to Shri G. L. Nagpal, Sub-Divisional Officer, Sirsa, for necessary action in accordance with the order of the Collector. Shri Nagpal visited the village on March 15, 1964, and, after hearing the petitioners, reported that the land had been reclaimed. It was then that the petitioners came to know that some proceedings were going on against them and they made review applications on March 24, 1964, for the cancellation of the order of the Collector, dated February 22, 1964. The Collector felt that he could not review his previous order without obtaining the permission of the Commissioner. The necessary permission was granted on June 7, 1966, and then the case was examined by Shri Ram S. Verma, I.A.S., Sub-Divisional Officer with powers of Collector, Sirsa, who passed a detailed order on April 17, 1967, after recording the evidence of the parties. He came to the conclusion that the land had not been brought under cultivation before Rabi, 1964, but it was not obligatory on him to determine the lease as the petitioners had satisfactorily proved that the land could not be reclaimed before 1963 on account of the floods in Ghaggar *Bundh* and the moment the State Government built the Ghaggar *Bundh*, reclamation of the land was taken in hand. The applications of respondents 1 to 3 were then rejected. Against the order of rejection, the said respondents filed an appeal under section 14 of the Act which was accepted by the Commissioner, Ambala Division, by order dated October 17, 1968. The revision filed by the petitioners against that order was dismissed by the Financial Commissioner by order, dated November 28, 1968. The petitioners then filed the present petition.

The scheme of the Act may now be considered. Under section 3 of the Act, the Collector can take possession of any land which has not been cultivated for six or more harvests after issuing notices to the landowners. The payment of compensation has to be made to the landowners under section 4 of the Act and under section 5 of the Act, the Collector can lease out that land for a term of not less than 7 years or more than 20 years. Section 6 gives the Collector power to determine the lease where the lessee commits a breach of its terms and under section 7 the possession of the land has to be restored to the landowner after the expiry of

the lease. It was held by a Division Bench of this Court in *Lilu and others. v. Karam Chand and others.* (1), that :—

> "* * * the Collector can retain the possession of the land for 20 years and during this period there is no restriction on his power to effect leases of the land provided that the period of no lease is less than 7 years and no lease goes beyond 20 years from the date of the original taking of possession of the land. This power can be exercised either during the currency of the original lease or on its expiry provided, of course, that the maximum period of 20 years from the date of taking of possession of the land is not exceeded." (as per the head-note).

Another Division Bench of this Court in *The Karnal Co-operative Farmers Society Limited, Pehowa* v. *The State of Haryana and others,* (2) held :—

> "From the bare reading of sections 6 and 7, it is clear that section 6 deals with those types of cases where the lease is determined by the Collector before the expiry of the period of lease while section 7 envisages those cases where proceedings are initiated by the Collector on the expiry of the term of the lease. Section 7, as is clear from its plain reading, provides a method to deliver possession to the owners of that property of which they were deprived under section 3 of the Act. After the expiry of the term of the lease, no right is left in the lessee who obtains the same under section 5 of the Act. The question of proceeding against the lessee in the ordinary Court of law hardly arises After the expiry of the period of lease, on the asking of the Collector, the lessee is legally bound to return possession of the leased land. In order to achieve the object of the Act, the legislature in its wisdom provided this summary method of ejectment. If the contention of the learned counsel for the petitioner is accepted to be correct, then the entire object of the Act would be frustrated. Sub-section (1) of section 7 only says that if the land of which possession has been taken by the Collector under sub-section (3) and has to be returned to the owner on the expiry of the lease, the Collector, after making such enquiry, as he considers

(1) I.L.R. (1965) 1 Pb. 1:
(2) 1972 P.L.J. 172.

> necessary, specify by order in writing the person to whom possession of the land has to be given. The enquiry, that is conducted by the Collector, is only to find out the person to whom possession of the land is to be given under section 7. The scheme of the Act is such that the ejectment has to take place automatically in the cases falling under section 7 of the Act and the lessee has no right to object to his ejectment and is left with no option but to vacate the land. When proceedings under section 7 start, the only objection available to the lessee is that the lease period has not come to an end."

That judgment was affirmed by the Supreme Court in *Dasaudha Singh and others,* v. *State of Haryana and others,* (3), wherein it was pointed out that the Collector was entitled to take possession of the land from the owner only for the maximum period of 20 years for which he could lease it to a tenant. After the expiry of the lease, the possession of the land has to be restored to the owner thereof. In order to determine the person to whom the possession is to be restored, procedure is prescribed in section 7. From the perusal of the provisions of the Act, in the light of the judgments referred to above, it is quite clear that the landowners have no legal right to ask for the restoration of the land to them before the expiry of 20 years, but there is no bar to the Collector restoring the possession to the landowners even before the expiry of that period, if he considers advisable, in the circumstances of the case, that is, if the lessee abandons the land or his lease is terminated by the Collector on account of the defaults committed by him in carrying out the terms of the lease or for any other reason the land ceases to be under the tenancy of any lessee. It is, therefore, open to a landowner to bring it to the notice of the Collector that a certain lessee has committed default in carrying out the terms of the lease, which entitles the Collector to determine that lease. It is for the Collector then to investigate the matter and to determine the lease or not to determine the lease on the facts of each case. To this proposition, even Shri N. L. Dhingra, the learned counsel for the petitioners, has agreed. Therefore, it is held that a landowner has the *locus standi* to make an application to the Collector bringing to his notice the facts that a lessee of his land, to whom a lease was granted under the Act by the Collector, has committed a default in carrying out the conditions of his lease as a result of which the

(3) 1973 P.L.J. 1.

lease can be determined. In fact, any person having any interest in the land can move such an application to the Collector for necessary action. The applications to the Collector made by the landowners in these cases were, therefore, competent.

The other question that arises for determination is whether a landowner, whose request for determining the lease, on the ground that the lessee had committed a default in carrying out the terms of the lease has been rejected by the Collector, can be said to be a person aggrieved, who can file an appeal under section 14 of the Act. The words 'person aggrieved' have been variously defined in judicial decisions. James, L.J., in case *Re. Sidebotham,* (1880), 14 Ch.D. 458, said :—

> "But the words 'person aggrieved' do not really mean a man who is disappointed of a benefit which he might have received if some other order had been made. A 'person aggrieved' must be a man who has suffered a legal grievance, a man against whom a decision has been pronounced which has wrongfully deprived him of something, or wrongfully refused him something, or wrongfully affected his title to something."

This definition by James, L. J., was characterised as the best definition by Lord Goddard, C.J., in *R.* v. *London Sessions Appeal Committee, Ex parte Westminister City Council,* (4).

In *Robinson* v. *Gurry* (5), Bramwell, L.J., said :—

> "The expression 'person aggrieved' is nowhere defined and must be construed by reference to the context of the enactment in which it appears and all the circumstances: the words are ordinary English words, which are to have the ordinary meaning put upon them."

In *Attorney General of the Gambia* v. *N'JIE,* (6), it was said that the definition of 'person aggrieved' by James, L.J., was not to be regarded as exhaustive. The facts of that case were that the respondent was a member of the English Bar, who was admitted to practice as a barrister and solicitor of the Supreme Court of Gambia. In June, 1958, in the course of giving judgment in a civil suit,

(4) (1951)1 A.E.R. 1032.
(5) (1881), 7 Q.B.D. 465 C.A: 470:
(6) 1961)2 A.E.R. 504.

the Chief Justice of Gambia criticised severly certain conduct of the respondent, as a result of which, the appellant, the Attorney General of Gambia, served a notice of motion on the respondent asking for an enquiry to be made by the Chief Justice into allegations of professional misconduct against him and for striking his name off the roll of that Court. The enquiry was held by a deputy judge who made an order on September 22, 1958, striking the name of the respondent off the roll of the Court and directing that it should be reported to the Masters of the Bench of his Inn. On June 5, 1959, the appeal filed by the respondent was accepted by the West African Court of Appeal on the ground that the deputy judge had no jurisdiction in the matter. The Attorney General then sought leave to appeal to Her Majesty, in Council which was refused. Thereupon, the Attorney General made a petition to Her Majesty for special leave to appeal which was granted, but liberty was expressly reserved to the respondent to raise the preliminary point that no appeal lay at the instance of the Attorney General because he could not be described to be a person aggrieved. In support of that point, reliance, was placed on the definition of 'person aggrieved' stated by James, L. J., in *Re. Sidebotham's case* (supra). Lord Denning, speaking for the Privy Council, observed:—

> "If this definition were to be regarded as exhaustive, it would mean that the only person who could be aggrieved would be a person who was a party to a lis, a controversy *inter partes*, and had had a decision given against him. The Attorney-General does not come within this definition, because, as their Lordships have already pointed out, in these disciplinary proceedings there is no suit between parties, but only action taken by the judge, *ex mero motu* or at the instance of the Attorney-General or someone else, against a delinquent practitioner.
>
> But the definition of James, L.J., is not to be regarded as exhaustive. Lord Esher, M. R., pointed that out in *Re Reed, Bowen and Co., Ex. p. Official Receiver* (7). The words 'person aggrieved' are of wide import and should not be subjected to a restrictive interpretation. They do not include, of course, a mere busybody who is interfering in things which do not concern him; but they do include a person who has a genuine grievance because an order has been made which prejudicially

(7) (1887)19 Q.B.D. 174 p. 178.

affects his interests. Has the appellant a sufficient interest for this purpose ? Their Lordships think that he has. The Attorney-General in a colony represents the Crown as the guardian of the public interest. It is his duty to bring before the judge any misconduct of a barrister or solicitor which is of sufficient gravity to warrant disciplinary action. True it is that, if the judge acquits the practitioner of misconduct, no appeal is open to the Attorney-General. He has done his duty and is not aggrieved. But if the judge finds the practitioner guilty of professional misconduct, and a Court of Appeal reverses the decision on a ground which goes to the jurisdiction of the Judge or is otherwise a point in which the public interest is concerned, the Attorney-General is a 'person aggrieved' by the decision and can properly petition Her Majesty for special leave to appeal. It was for these reasons that their Lordships rejected the preliminary objection and held that the appellant was a 'person aggrieved' by the decision of the West African Court of Appeal."

In *Thiruvengadam* v. *Muthu Chettiar and another*. (8) it was said:—

A person can be said to be aggrieved, if apart from the general interest such a person, as a member of the public. may have, he has a particular or special interest in the subject-matter supposed to be wrongly decided."

In Corpus Juris Secundum, Volume III, at page 351, the following statement appears with regard to aggrieved party or person :—

"It has been said that the expression is not a technical one and that the words are to be given their natural meanning, of one who has suffered an injury to person or property, one who is afflicted, oppressed, injured, vexed or harassed, or one to whom pain or sorrow is given. In legal acceptation, or in a legal sense, and when used with reference to legal remedies the words have been construed as having a sufficiently definite meaning which must be determined with reference to the context and subject

(8) A.I.R. 1970 Madras 34.

matter. They may be and have been used as meaning or having reference to any one who is injured in a legal sense, or who suffers from the aggressions of others.

The phrases 'party aggrieved' and 'person aggrieved' have been held equivalent, identical, or synonymous with 'adverse party."

'Aggrieved person' thus has a number of meanings and the matter has to be decided in each case whether a person, who claims to file an appeal, is an 'aggrieved person' or not.

The Supreme Court in ***Ebrahim Aboobakar and another*** v. *Custodian **General of Evacuee Property,*** (9) elaborately dealt with this point. In that case, Tek Chand Dolwani supplied information to the Additional Custodian of Evacuee Property that Aboobaker Abdul Rahman was possessed of considerable movable as well as immovable properties including a cinema theatre, known as the Imperial Cinema, situate at Bombay, and that he had gone to Pakistan soon after the partition of India and settled at Karachi in the month of September, 1947, where he purchased certain properties in that month. An enquiry was held into the matter and it was held on February 8, 1950, that the said Aboobaker was not an evacuee. The Additional Custodian issued another notice to Aboobaker on the same day calling upon him to show cause why he should not be declared an intending evacuee under section 19 of the Administration of Evacuee Property (Amendment) Ordinance No. 27 of 1949, and on February 9, 1950, adjudicated him as an intending evacuee. On March 31, 1950, Tek Chand Dolwani filed an appeal against the order dated February 9, 1950, to the Custodian General of India praying for an order declaring the said Abookaker an evacuee and that he being the first informant, should be allotted the said cinema. A preliminary objection was raised that Tek Chand Dolwani had no *locus standi* to prefer the appeal as he was not a person aggrieved from the order appealed against. The Custodian General of India held that the appeal purporting to be from the order passed by the Additional Custodian on February 9, 1950, declaring the said Aboobaker an intending evacuee in effect and in substance was directed against the order made on February 8, 1950, declining to declare the property of Aboobaker as evacuee property. He further held that Tek Chand Dolwani was interested in the appeal and had *locus standi* to prefer it. When this point

(9) 1952 S.C.R. 696.

was raised before the Supreme Court, it was repelled with the following observations at p. 705 :—

"For a proper appraisal of the contention that Tek Chand Dolwani is not a 'person aggrieved' within the meaning of those words in section 24 of the Ordinance, it is necessary to refer to the rules made under the Ordinance. It is provided in rule 5(5), that any person or persons claiming to be interested in the enquiry or in the property being declared as evacuee property, may file a written statement in reply to the written statement filed by the persons interested in the property claiming that the property should not be declared evacuee property, the Custodian shall then either on the same day or on any subsequent day to which the hearing may be adjourned, proceed to hear the evidence, if any, which the party appearing to show cause may produce and also evidence which the party claiming to be interested as mentioned above may adduce. In the proceedings before the Additional Custodian, Tek Chand Dolwani filed a reply to the written statement of Aboobaker and adduced evidence in support of the stand taken by him that the property of Aboobaker was evacuee property. Further Tek Chand Dolwani was the first informant who brought to the notice of the Custodian concerned that the property of Aboobaker was evacuee property and in view of the order of the Ministry of Rehabilitation he was, as a first informant, entitled to first consideration in the allotment of this property, the Additional Custodian was bound to hear him on the truth and validity of the information given by him. When a person is given a right to raise a contest in a certain matter and his contention is negatived, then to say that he is not a person aggrieved by the order does not seem to us to be at all right or proper. *He is certainly aggrieved by the order disallowing his contention.* Section 24 allows a right of appeal to any person aggrieved by an order made under section 7. The conclusion reached by the Additional Custodian on the 8th February, 1950, that Aboobaker was not an evacuee amounted to an order under section 7 and Tek Chand, therefore, was a person aggrieved by that order." (Emphasis supplied).

On the parity of reasoning, it can be said that the landowners had the right to inform the Collector that the lessees had committed a default or defaults in carrying out the terms of the lease as a result of which the lease in their favour should be determined. When that contention of the landowners was disallowed, they naturally felt aggrieved against the disallowance of their contention and can be termed as persons aggrieved, in view of the dictum of the Supreme Court. They had, therefore, the right to appeal to the Commissioner against the order of the Collector (S.D.O. (C)), Sirsa, refusing to terminate the leases in favour of the petitioners, although a finding was given that they had committed a default of the terms of the lease. If the leases in favour of the petitioners were cancelled, the landowners could request the Collector not to further lease out the lands to any other person for any period, but to restore the same to them. The Collector might or might not have accepted their request, but they had sufficient interest in making that request to the Collector as owners of the land. Their proprietary rights in the land subsisted and only the right to possess the land temporarily had been taken over by the Collector by acquisition.

Shri N. L. Dhingra has then contended that the landowners had no right to have the land restored to them before the expiry of 20 years which is the maximum period of the lease and he has tried to support his contention from the fact that in section 7, as originally enacted, the words were :—

> "Where any land taken possession of by the Collector under section 3 is on the expiry of the lease or its earlier termination, to be returned to the owner ...."

and that the words "or its earlier termination" were omitted by the East Punjab Utilisation of Lands (Amendment) Act, 1951, (Punjab Act No. 11 of 1951), from which the intention of the legislature was clear that the landowner should get back the land only after the expiry of 20 years and not earlier. I regret my inability to agree to this submission. The words "or its earlier termination" were omitted from section 7 because of the omission of section 6 from the Act by the same Amending Act. As a result of the omission of section 6, the words "or its earlier termination" became redundant. Section 6 in a modified form was again inserted in the Act

by the Punjab Utilisation of Lands (Amendment) Act (Punjab Act No. 24 of 1957), as under :—

"6. Power of Collector to determine lease in certain cases—

(1) If a person to whom land has been leased under section 5 commits a breach of any of the terms and conditions thereof, the Collector shall, without prejudice to any other right or remedy against him, have the power to determine the lease and take possession of the land.

(2) Where lease has been determined by the Collector, the lessee shall not be entitled to any compensation,"

This section was substituted by the East Punjab Utilisation of Lands (Haryana Amendment and Validation) Act No. 35 of 1971 and the substitution was to have effect from July 29, 1957, that is, the date on which section 6 was inserted by Punjab Act No. 24 of 1957. This section is to be read, with effect from July 29, 1957, as under :—

"6. *Power of Collector to determine lease in certain cases.—*

(1) If a tenant commits a breach of any of the terms and conditions of his tenancy, the Collector shall have the power to determine the lease and take possession of the land after affording a reasonable opportunity to the tenant to show cause why his lease should not be determined and the possession of the land taken.

(2) Where lease has been determined by the Collector under sub-section (1), the tenant shall not be entitled to any compensation.

(3) The principles embodied in the various provisions of the Transfer of Property Act, 1882, shall not apply to any proceedings under this Act.

(4) No civil or revenue court shall have jurisdiction to entertain any suit or proceedings in respect of the determination of lease or eviction of a tenant."

The word "on the expiry of the lease" in section 7 of the Act really denote the stage when the land ceases to be under the tenancy of any person, whether by termination of the lease or by abandonment by the lessee or in any other manner. When the

lease of a lessee is determined earlier than the expiry of the full term because of the default committed, the lease expires and comes to an end. After the termination of his lease, it cannot be said to be continuing. Thereafter, another lease in favour of somebody else may be created by the Collector, if he is so minded or he may restore the land to the landowner in case he is satisfied that he is in a position to cultivate the same. Therefore, the mere omission of the words "or its earlier termination" from section 7 does not mean that the landowner has no right to pray to the Collector for the restoration of his land before the expiry of the period of 20 years even when the lease in favour of a lessee is determined by the Collector because of the defaults committed by him. The land-owners in these cases had interest in the land as owners thereof and there was no bar in their way to inform the Collector that the grounds existed for the determination of the lease and if their contention was accepted and leases determined, an order for restoration of the land in their favour may be passed. Since their contention for determination of the leases of the petitioners, even on commission of default by them, had been disallowed, they were clearly persons aggrieved who could file the appeals. The appeals filed by the landowners in these cases before the Commissioner were, therefore, competent. The cases will now be fixed for decision on merits before a learned Single Judge.

Before B. R. Tuli and P. S. Pattar, JJ.

M/S. HANUMAN DALL AND GENERAL MILLS, HISSAR,—*Petitioner.*

versus

THE STATE OF HARYANA AND OTHERS,—*Respondents.*

C.W. No. 3274 of 1974.
and
C.M. No. 9010 of 1974.

November 8, 1974.

Punjab Agricultural Produce Markets Act (*Punjab Act* 23 *of* 1961 *as amended by Punjab Amendment Acts,* 25 *of* 1969, 28 *of* 1973 *and* 30 *of* 1974, *also as amended by Haryana Amendment Acts* 18 *of* 1969, 21 *of* 1973, 10 *of* 1974 *and* 17 *of* 1974)—*Section* 23—*Constitution*