

**Course Name – LL.B 6<sup>th</sup> Sem**  
**Teacher - Ram Kumar Bhardwaj**  
**Concept Covered – UNIT - III**

**Topic 1 .Punjab Tenancy Act, 1887**

Definitions are given in Sec 4 of the Punjab Tenancy Act, 1887

**Sec 4 Definitions** – In this Act, unless there is something repugnant in the subject or context-

(1) “land” means land which is not occupied as the site of any building in a town or village and is occupied or has been let for agricultural purposes or for purposes subservient to agriculture or for pasture, and includes the sites of buildings and other structures on such land:

[(1-A) “Government” shall, unless the context otherwise provides, means the Provincial Government:]

(2) “pay”, with its grammatical variations and cognate expressions, includes, when used with reference to rent, “deliver” and “render”, with their grammatical variations and cognate expressions:

(3) “rent” means whatever is payable to a land-lord in money, kind or service by a tenant on account of the use or occupation of land held by him; [but it shall not include any cess, village cess or other contribution or due or any free personal service]:

(4) “arrear of rent” means rent which remains unpaid after the date on which it becomes payable:

(5) “tenant” means a person who holds land under another person, and is or but for a special contract would be, liable to pay rent for that land to that other person: but it does not include—

(a) 6 [ \* \* \* ]

(b) a mortgagee of the rights of a land-owner, or

(c) a person to whom a holding has been transferred, or an estate or holding has been let in farm, under the Punjab Land Revenue Act, [1967], for the recovery of an arrear of land revenue or of a sum recoverable as such an arrear, or

(d) a person who takes from the [Government] a lease of unoccupied land for the purpose of sub-letting it:

(6) “land-lord” means a person under whom a tenant holds land, and to whom the tenant is or but for a special contract would be, liable to pay rent for that land:

(7) “tenant” and “land-lord” include the predecessors and successors-in-interest of a tenant and land-lord, respectively:

(8) “tenancy” means a parcel of land held by a tenant of a land-lord under one lease or one set of conditions:

(9) “estate”, “land-owner” and “holding” have the meanings respectively assigned to those words in the Punjab Land Revenue Act, [1967]:

(10) “land revenue” means land revenue assessed under any law for the time being in force or assessable under the Punjab Land Revenue Act, [1967], and includes—

(a) any rate imposed in respect of the increased value of land due to irrigation; and

(b) any sum payable in respect of land, by way of quitrent or of commutation for service, to the [Government] or to a person to whom the [Government] has assigned the right to receive the payment:

(11) “rates and cesses” means rates and cesses which are primarily payable by land-owners, and includes—

(a) 13[\* \* \* ] ;

(b) the local rate, if any, payable under the Punjab Local Government Ordinance, 2001];

(c) any annual rate chargeable on owners of lands under section 59 of the Canal and Drainage Act, 1873;

(d) the village officer’s, cesses; and

(e) sums payable on account of village expenses:

(12) “village cess” means any cess, contribution or due which is customarily leviable, from landowners and non-land-owners alike, within an estate for the common purposes of the inhabitants thereof, and is neither a payment for the use of any private property or for personal service, nor imposed by or under any enactment for the time being in force, and does not mean any cess, contribution or due leviable, for the benefit of any individual residents or class of residents in the estate, or in relation to any property which is not meant for the common use of all the residents:

Explanation— If any question arises whether any cess, contribution or due is or is not a village cess, the decision of the [Board of Revenue] shall be conclusive and shall not be liable to be questioned in any Court]:

(13) “Village Officer” means a chief headman, headman or Patwari:

(14) “Revenue Officer” or “Revenue Court”, in any provision of this Act, means a Revenue Officer or Revenue Court having authority under this Act to discharge the functions of a Revenue Officer or Revenue Court, as the case may be, under that provision:

(15) “jagirdar” includes any person, other than a village servant, to whom the land revenue of any land has been assigned in whole or in part [by the Government] or by [a servant of the State]:

(16) “legal practitioner” means any legal practitioner within the meaning of the Legal Practitioners Act, 1879, except a mukhtar:

(17) “agricultural year” means the year commencing on the sixteenth day of June, or on such other date as the [Provincial Government] may, by notification appoint for any local area:

(18) “notification” means a notification published by authority of the [Provincial Government] or [the Board of Revenue] in the Official Gazette:

(19) “improvement” means with reference to a tenancy, any work which is suitable to the tenancy and consistent with the conditions on which it is held, by which the value of the tenancy has been and continues to be increased, and which, if not

executed on the tenancy, is either executed directly for its benefit, or is, after execution made directly beneficial to it:

Explanation I.- It includes, among other things,—

- (a) the construction of wells and other works for the storage or supply of water for agricultural purposes;
- (b) the construction of works for drainage and for protection against floods;
- (c) the planting of trees, the reclaiming, enclosing, levelling and terracing of land for agricultural purposes and other works of a like nature;
- (d) the erection of buildings required for the more convenient or profitable cultivation of a tenancy; and (e) the renewal or reconstruction of any of the foregoing works, or such alterations therein, or additions thereto, as are not of the nature of mere repairs and as durably increase their value;

But it does not include such clearances, embankments, levelling, enclosures, temporary wells and water channels as are made by tenants in the ordinary course of cultivation and without any special expenditure, or any other benefit accruing to land from the ordinary operations of husbandry;

Explanation II.- A work which benefits several tenancies may be deemed to be, with respect to each of them, an improvement; Explanation III.- A work executed by a tenant is not an improvement if it substantially diminishes the value of any other part of his land-lord's property; and

(20) “Muqarraridar” means any person who holds land in [the Attock and Rawalpindi Districts] and who, on the date of the commencement of the Punjab Tenancy (Amendment) Act, 1952, was recorded in the revenue records as muqarraridar in respect of such land or who, after the said date, was so recorded with his consent and the consent of the proprietor of such land and includes the successors-in-interest of a muqarraridar.

## **Class of Tenants.**

What is Tenant ?

Sec 4(5) of the Act defines the term as “tenant” means a person who holds land under another person, and is or but for a special contract would be, liable to pay rent for that land to that other person: but it does not include—

(a) an inferior land owner or

There are superior (malik ala) and inferior (malik adna) proprietors, the former simply levying a short of customary rent from the latter, who actually occupy the soil, either cultivating themselves or through tenants. Meaning thereby that an inferior land owner that is malik adna is not a tenant.

(b) a mortgagee of the rights of a land-owner, or

(c) a person to whom a holding has been transferred, or an estate or holding has been let in farm, under the Punjab Land Revenue Act, 1887, for the recovery of an arrear of land revenue or of a sum recoverable as such an arrear, or

Also, known as Jagirdar, It includes any person other than a village servant, to whom the land revenue of any land has been assigned in whole or any part by the government or by the officer of the government.

(d) a person who takes from the [Government] a lease of unoccupied land for the purpose of sub-letting it:

In the case of **Bhagwant Singh Vs State of Punjab 1983 PLJ 384**, It was held that the intention of the Legislature was never to create a land lord and tenant relationship between the collector who had the authority to grant the lease and the person who is subletting it.

On the careful perusal of the definition, there arises two main ingredient to constitute ‘tenant’ which are

1. The person must hold land under another person, and
2. He would have been liable to pay rent for that land to another person but for a special contract.

**Mukat Singh Vs Smt Jawala Devi 1983 PLJ182**, It was held that one of the material circumstances to prove a tenancy is that the alleged tenant is liable to pay rent. It is only then the conclusion is reached that he was such tenant liable to pay rent. A tenancy would come into existence only when there is a bilateral agreement between the parties

### **Class of Tenants**

Tenant can be generally classified into four broad categories.

#### **1. Occupancy Tenant -**

These are superior class of tenants. They have acquired the status after long years. They have more rights and less liabilities than that of the other classes. They are recorded as occupancy tenants in the revenue record while they fulfil the conditions as envisaged under Sections 5 – 11 of the Punjab Tenancy Act. With the enactment of Punjab Occupancy Tenant (Vesting of Proprietary Rights) Act, 1952 such tenants have become proprietors. Practically there is less scope of becoming occupancy tenant today. Occupancy tenant can not be ejected now as either he will be less of an occupancy or proprietor.

#### **2. Fixed Tenant –**

The tenants with the fixed term which is more than one year. In agricultural site, tenancy is generally year wise. If the tenant is more than one year old, he is a fixed tenant.

#### **3. Year to Year Tenant –**

It means the tenancy is for year to year subject to renew.

#### **4. Tenant at will –**

The tenants who are the most vulnerable or inferior of all. They can be removed any time by the land lord from the tenancy. As such land lord exercise more rights than the tenants.

Section 4(7) of the Act states that tenant includes the predecessors and successor in interest of a tenant. Section 4(8) provides for “tenancy” means a parcel of land held by a tenant of landlord under one lease or one set of conditions.

## **RIGHT OF OCCUPANCY**

### **Sec 5 Tenants having right of occupancy.—**

(1) A tenant—

(a) who at the commencement of this Act has, for more than two generations in the male line of descent through a grandfather or grand uncle and for a period of not less than twenty years, been occupying land paying no rent therefor beyond the amount of the land revenue thereof and the rates and cesses for the time being chargeable thereon, or

(b) who having owned land, and having ceased to be land-owner thereof otherwise than by forfeiture to the Government or than by any voluntary act, has, since he ceased to be land-owner, continuously occupied the land, or

(c) who, in a village or estate in which he settled alongwith, or was settled by, the founder thereof as a cultivator therein, occupied land on the twenty-first day of October, 1868, and has continuously occupied the land since that date, or

(d) who, being jagirdar of the estate or any part of the estate in which the land occupied by him is situate, has continuously occupied the land for not less than twenty years, or having been such jagirdar, occupied the land while he was jagirdar and has continuously occupied it for not less than twenty years, has a right of occupancy in the land so occupied, unless, in the case of a tenant belonging to the class specified in clause (c), the land-lord proves that the tenant was settled on land previously cleared and brought under cultivation by, or at the expense of, the founder.

(2) If a tenant proves that he has continuously occupied land for thirty years and paid no rent therefore beyond the amount of the land revenue thereof and the rates and cesses for the time being chargeable thereon, it may be presumed that he has fulfilled the conditions of clause (a) of sub-section (1).

(3) The words in that clause denoting natural relationship denote also relationship by adoption, including therein the customary appointment of an heir and relationship, by the usage of a religious community.

**Sec 6 Right of occupancy of other tenants recorded as having the right before passing of Punjab Tenancy Act, 1868.—**

A tenant recorded in a record-of-rights sanctioned by the State Government, before the twenty-first day of October, 1868, as a tenant having a right of occupancy in land which he has continuously occupied from the time of the preparation of that record, shall be deemed to have a right of occupancy in that land unless the contrary has been established by a decree of a competent Court in a suit instituted before the passing of this Act.

**Sec 7. Right of occupancy in land taken in exchange.—**

If the tenant has voluntarily exchanged the land, or any portion of the land, formerly occupied by him for other land belonging to the same land-lord, the land taken in exchange shall be held to be subject to the same right of occupancy as that to which the land given in exchange would have been subject if the exchange had not taken place.

**Sec 8. Establishment of right of occupancy on grounds other than those expressly stated in Act.—**

Nothing in the foregoing sections of this Chapter shall preclude any person from establishing a right of occupancy on any ground other than the grounds specified in those sections.

**Sec 9. Right of occupancy not to be acquired by mere lapse of time.—**

No tenant shall acquire a right of occupancy by mere lapse of time.

**10. Right of occupancy not to be acquired by joint owner in land held in joint ownership.—**

In the absence of a custom to the contrary, no one of several joint owners of land shall acquire a right of occupancy under this Chapter in land jointly owned by them.

**Sec 11. Continuance of existing occupancy rights.—**

Sec 11 speaks of continuance of existing occupancy that where a tenant who has obtained occupancy status under the Act of 1868, is to be held have acquired a



corresponding status under the present Act when it came into force. However, it is not intention of the legislature to debar any such tenant from the benefit of the provisions of the present Act placed him in a more favorable position than the former Act.

### **GIST OF SECTION 5 - 11**

The tenant is entitled for the right of occupancy if the following conditions are satisfied by him.

1. Who for more than two generation in the male line of decendants occupying the land at the time of commencement of the present Act, or
2. Who is occupying the land of the landlord for a period of not less than 30 years and paying no rent in respect of such land except the amount of land revenue thereof, at the commencement of this Act, or
3. Who was in possession of the land on twenty – first day of October, 1868 as in continuous possession of the land since, that date or,
4. Who is occupying the land of the landlord continuously for thirty years and paying no rent beyond the amount of land Revenue or
5. The tenant who has been recorded as tenant in the record of rights before 21<sup>st</sup> Oct, 1868 shall be entitled for right of occupancy under this act or
6. The tenant who exchanged the land with the landlord formerly occupied by him shall have the same right of occupancy with respect to such land, which came in his possession as a matter of exchange. Mere long possession is not sole criteria for claiming right of occupancy under this act. The Act clearly laid down in the foregoing sections that possession over the land of the landlord and too without payment of rent with respect to such land beyond the amount of land revenue is the condition precedent for claiming right to occupancy. Therefore, it is clearly given under this Act that a tenant shall not acquire the right of occupancy by mere lapse of time

Apart from, the right of occupancy shall not be acquired by joint owners of land held by such person jointly. However, if there is custom to this effect then in such a situation the joint owner also entitled legally for claiming the right of occupancy. The person who is filling a case in this

regard has to prove such custom in the Revenue Court or before prescribed authority.

It is very much clear from the provisions of the Act, that share of a single marla in joint ownership is sufficient to proof for rejecting the application of a tenant for claiming right of occupancy. The proof can be given by showing the name of such person in record of rights.

### **EJECTMENT OF THE TENANT UNDER THIS ACT**

#### **Sec 39. Grounds of ejectment of occupancy tenant.—**

(1) A tenant having a right of occupancy shall be liable to be ejected from his tenancy on any of the following grounds, namely:-

(a) that he has used the land comprised in the tenancy in a manner which renders it unfit for the purposes for which he held it;

(b) where rent is payable in kind, that he has without sufficient cause failed to cultivate that land in the manner or to the extent customary in the locality in which the land is situate;

(c) when a decree for an arrear of rent in respect of his tenancy has been passed against him and remains unsatisfied.

#### **Sec 40. Grounds of ejectment of tenant for a fixed term.—**

A tenant not having a right of occupancy but holding for a fixed term under a contract or a decree or order of competent authority, shall be liable to be ejected from his tenancy at the expiration of that term, and, on any of the following grounds, before the expiration thereof, namely:-

(a) that he has used the land comprised in the tenancy in a manner which renders it unfit for the purposes for which he held it;

(b) where rent is payable in kind, that he has without sufficient cause failed to cultivate that land in the manner or to the extent customary in the locality in which the land is situate;

(c) on any ground which would justify ejectment under the contract, decree or order.

#### **41. Ejectment of tenant from year to year.—**

A tenant who has not a right of occupancy, and does not hold for a fixed term under a contract or a decree or order of competent authority, may be ejected at the end of any agricultural year.

### **PROCEDURE FOR EJECTMENT**

#### **Sec 42. Restriction on ejectment.—**

A tenant shall not be ejected otherwise than in execution of a decree for ejectment, except in the following cases, namely:-

(a) when a decree for an arrear of rent in respect of his tenancy has been passed against him and remains unsatisfied;

(b) when the tenant has not a right of occupancy and does not hold for a fixed term under a contract or a decree or order of competent authority.

#### **Sec 43. Application to Revenue Officer for ejectment.—**

In any such case as is mentioned in clause (a) or clause (b) of the last foregoing section, the land-lord may apply to a Revenue Officer for the ejectment of the tenant in the case mentioned in the former clause or for the service on the tenant of a notice of ejectment in the case mentioned in the latter clause.

#### **Sec 44. Ejectment for failure to satisfy decree for arrear of rent.—**

(1) On receiving the application in any such case as is mentioned in clause (a) of section 42, the Revenue Officer shall, after such inquiry with respect to the existence of the arrear as he deems necessary, cause a notice to be served on the tenant, stating the date of the decree and the amount due thereunder, and informing him that if he does not pay that amount to the Revenue Officer within fifteen days from receipt of the notice he will be ejected from the land.

(2) If the amount is not so paid the Revenue Officer shall, subject to the provisions of this Act with respect to the payment of compensation, order the ejectment of the tenant unless good cause is shown to the contrary.

**45. Ejectment of tenant from year to year by notice.—**

(1) On receiving the application of the land-lord in any such case as is mentioned in clause (b) of section 42, the Revenue Officer shall, if the application is in order and not open to objection on the face of it, cause a notice of ejectment to be served on the tenant.

(2) A notice under sub-section (1) shall not be served after the fifteenth day of November in any [agricultural] year.

(3) The notice shall specify the name of the land-lord on whose application it is issued, and describe the land to which it relates, and shall inform the tenant that he must vacate the land before the first day of May next following, or that, if he intends to contest his liability to ejectment, he must institute a suit for this purpose in a Revenue Court within two months from the date of the service of the notice.

(4) The notice shall also inform the tenant that if he does not intend to contest his liability to be ejected and he has any claim for compensation on ejectment, he should within two months from the date of the service of the notice prefer his claim to the Revenue Officer having authority under the next following sub-section to order his ejectment in the circumstances described in that sub-section.

(5) If within two months from the date of the service of the notice the tenant does not institute a suit to contest his liability to be ejected, a Revenue Officer, on the application of the landlord, shall, subject to the provisions of this Act with respect to the payment of compensation, order the ejectment of the tenant:

Provided that the Revenue Officer shall not make the order until he is satisfied that the notice was duly served on the tenant.

(6) If within those two months the tenant institutes a suit to contest his liability to be ejected and fails in the suit, the Court by which the suit is determined shall by its decree direct the ejectment of the tenant.

## **Sec 47. Time for ejectment.—**

A decree or order for the ejectment of a tenant shall not be executed at any other time than between the first day of May and the fifteenth day of June (both days inclusive), unless the Court making the decree or where the order is made under section 44, the officer making the order, otherwise directs.

## **Law relating to Rent**

### **Sec 12. Respective rights of land-lord and tenant to produce.—**

(1) The rent for the time being payable in respect of a tenancy shall be the first charge on the produce thereof.

(2) A tenant shall be entitled to tend, cut and harvest the produce of his tenancy in due course of husbandry without any interference on the part of his land-lord.

(3) Except where rent is taken by division of the produce, the tenant shall be entitled to the exclusive possession of the produce.

(4) Where rent is taken by division of the produce:-

(a) the tenant shall be entitled to the exclusive possession of the whole produce until it is divided;

(b) the land-lord shall be entitled to be present at, and take part in, the division of the produce; and

(c) when the produce has been divided, the land-lord shall be entitled to the possession of his share thereof

### **13. Commutation and alteration of rent.—**

(1) Where rent is taken by any of the following methods, namely:-

(a) by division or appraisalment of the produce,

(b) by rates fixed with reference to the nature of the crops grown,

(c) by a rate on a recognised measure of area,

(d) by a rent in gross on the tenancy, or

(e) partly by one of the methods specified in clauses (a), (b) and (c) of this sub-section and partly by another or others of them,

one of those methods shall not be commuted in whole or in part into another without the consent of both land-lord and tenant.

(2) In the absence of a contract or a decree or order of competent authority to the contrary, a tenant whose rent is taken by any of the methods specified in clauses (a), (b) and (c) of sub-section (1), or by the methods specified in clause (d) of that sub-section, shall not be liable to pay for a tenancy rent at any higher amount, as the case may be, than the rate or amount payable in respect of the tenancy for the preceding agricultural year

#### **14. Payments for land occupied without consent of land-lord.–**

Any person in possession of land occupied without the consent of the land-lord shall be liable to pay for the use or occupation of that land at the rate of rent payable in the preceding agricultural year, or, if rent was not payable in that year, at such rate as the Court may determine to be fair and equitable.

#### **15. Collection of rents of undivided property.–**

When two or more persons are land-lords of a tenant in respect of the same tenancy, the tenant shall not be bound to pay part of the rent of his tenancy to one of those persons and part to another.

#### **15-A. Rights and liabilities regarding rent and Government dues.–**

Subject to the provisions of paragraph 25 of the Land Reforms Regulation [1972], the land-lord and the tenant shall share the produce in the same ratio in which they used to share it on the 20th day of December, 1971

**Anguri Devi Vs. Jasmer Singh 2006(4) RCR (Civil) 707 (P&H)** – It was held that provisions and bar under Punjab Tenancy Act will apply only when there is a relationship of landlord and tenant and the recovery of rent due is sought. In the absence of any tenancy, the suit for recovery of mesne profit or damage for unauthorized possession is maintainable.

**Bhajan Singh Vs Gurdev Singh** 2008(1) RCR (Civil) 165 (FCP) – It was held that ejectment of tenant for land sought on ground of non-payment of rent. Evidence showed that tenant gave notice for asking the land-owner to accept the tenant. Thereafter, he along with elders of the village personally met land-owner to make payment. Cannot be said tenant was willful defaulter.

