observed that each one of the three tenants, namely, the respondent and his two brothers had an interest in the whole of the disputed land whether they were occupying it as joint tenants or as tenants-in-common.

(22) Mr. Bahri also gets some support from the aforesaid observations of Koshal J. Section 17-A of the 1953 Act clearly gives protection to a tenant purchaser of the land which is in his possession along with other tenants. The phraseology of section 17-A is more favourable to the tenant than that of sub-clause fourthly of clause (a) of sub-section (1) of section 15 of the 1913 Act.

(23) In view of the aforesaid reasons, the plaintiff-appellant's suit stands dismissed regarding the land contained in first and second category and decreed regarding the land in third category on payment of proportionate price.

(24) For the reasons recorded above, I modify the aforesaid decree of the first appellate Court accordingly. The plaintiff appellant should deposit the price of the land within two months from today, if he has not done so earlier. In the circumstances of this case, I leave the parties to bear their own costs.

N.K.S.

LETTERS PATENT APPEAL

Before Harbans Singh, C.J. and Bal Raj Tuli, J.

THE AKAL TRANSPORT CO. (P.) LTD., LUDHIANA,—*Appellant.*

versus

THE DISTRICT JUDGE, ETC.,—*Respondents.*

Letters Patent Appeal No. 43 of 1972.

August 28, 1972.

Motor Vehicles Act (IV of 1939)—Sections 2(28A), 48(3)(XXI) and 57(8)—Extension of route beyond one of the two termini—Section 57(8)—Whether applicable.

Held, that from the definition of the word "route" as given in section 2(28A) of Motor Vehicles Act, 1939, it is clear that if one of

the two termini of a route is to be changed, it can be done under section 57(8) of the Act and not under clause (xxi) of section 48(3). This clause applies to the variation of the distance covered by the original route, that is, the termini prescribed for the original route should remain the same or, in other words, the clause applies only to a diversion of a route between two termini fixed for the original route and not for the extension thereof beyond one of the two termini. Thus if a route has to be extended beyond one of the two termini, the application has to be made under section 57(8) and not under clause (xxi) of section 48(3) of the Act.

(Para 4)

Letters Patent Appeal under Clause X of the Letters Patent against the judgment of Hon'ble Mr. Justice R. S. Narula, passed in Civil Writ No. 2970 of 1971 on 12th January, 1972.

Baldev Kapoor, Advocate, *for the appellant.*

S. K. Sayal, Advocate, assisting J. S. Wasu, Advocate-General, (Punjab), *for Respondent No, 2 only,*

M. J. S. Sethi, Advocate, *for Respondent No. 3,*

JUDGMENT

Judgment of the Court was delivered by:—

B. R. TULI, J.—This appeal under clause 10 of the Letters Patent is directed against the order of a learned Single Judge dated January 12, 1972, accepting C.W. 2970 of 1971. The appellant was one of the respondents to the said writ petition.

(2) The facts are that Barnala Transport Service Private Limited (respondent 3) held four permits on 'Barnala-Diwana extended up to Hathur route' providing for six return trips. The route was extended up to Jagraon by the State Transport Commissioner by order dated March 30, 1971, after following the procedure prescribed in section 57 of the Motor Vehicles Act, 1939 (hereinafter called the Act). The appellant contested the application of respondent 3 for extension of the route and, having failed, filed an appeal before the appellate authority (District and Sessions Judge, Ludhiana). The learned appellate authority accepted the appeal by order dated July 31, 1971, and set aside the order of the State Transport Commissioner. The main argument which prevailed with the learned appellate authority was that clause (xxi) of section 48(3) of the Act applied to the permits and, therefore, no variation in the distance of the route could be made for more than 24 kilometres. In this case it was pleaded that

the original permits were between Barnala and Diwana which were first extended up to Hathur and then up to Jagraon. The distance between Hathur and Jagraon was admittedly less than 24 kilometres but between Diwana and Jagraon it was more than 24 kilometres. Against the order of the appellate authority, respondent 3 filed C.W. 2970 of 1971, which was accepted by the learned Single Judge on the ground that clause (xxi) of section 48(3) did not apply and the extension in the route could be granted under section 57(8) of the Act.

(3) The learned counsel for the appellant has stressed that section 57(8) of the Act only prescribes the procedure but does not prescribe the authority which can vary the conditions of any permit by the inclusion of a new route or routes or a new area. According to section 57(8) such an application is to be treated as an application for the grant of a new permit. It, therefore, follows that the application to vary the condition of a permit by the inclusion of a new route or routes or a new area has to be made to the same authority which is competent to grant a new permit. It is not disputed that the State Transport Commissioner was competent to grant a new permit and, therefore, was also competent to deal with the application for extension of the route. This submission is, therefore, repelled.

(4) The learned counsel then argued that under section 48(3) of the Act, the Regional Transport Authority can attach to the permit any one or more of the conditions specified therein and condition No. 1 is "that the vehicle or vehicles shall be used only in a specified area, or on a specified route or routes". If that condition has to be changed, it can only be done under clause (xxi) of sub-section (3) of section 48 of the Act. It is admitted by the learned counsel that clause (xxi) was not prescribed as a condition of the permit and, therefore, it cannot be said that condition No. 1 with regard to the route could be changed only as is provided in clause (xxi) *ibid.* As I have pointed out above, a specific provision for the extension of a route permit has been made in section 57(8) of the Act and any order under that sub-section can be passed to vary the conditions of a permit including condition No. 1 with regard to the area or the routes specified in the permit. "Route" has been defined in section 2(28A) of the Act to mean—

> "a line of travel which specifies the highway which may be traversed by a motor vehicle between one terminus and another."

From this definition it is clear that if one of the two termini of a route is to be changed, it can be done under section 57(8) of the Act and

not under clause (xxi) of section 48(3). Clause (xxi) applies to the variation of the distance covered by the original route, that is, the termini prescribed for the original route should remain the same or, in other words, this clause applies only to a diversion of a route between two termini fixed for the original route and not for the extension thereof beyond one of the two termini. If a route has to be extended beyond one of the two termini, the application has to be made under section 57(8) and not under clause (xxi) of section 48(3) of the Act. There is, therefore, no merit in this submission of the learned counsel for the appellant.

(5) Lastly, the learned counsel for the appellant argued that under section 57(8) of the Act no extension of the route could be made because the permits held by respondent 3 were temporary permits. In reply, it has been stated by the learned counsel for respondent 3 that the permits were in fact regular permits but were being issued on four-monthly basis because the Government was considering the scheme of hundred per cent nationalisation of the routes lying in the area of the former Pepsu State. Support is sought from the minutes of the meeting of the State Transport Commissioner dated September 29, 1969, filed as annexure R-1 to its written statement by the appellant-Company, wherein it is mentioned that respondent 3 is allowed extension of Barnala-Diwana route up to Hathur on four-monthly basis. A temporary permit cannot be granted for more than four months and can only be granted once. The State Transport Commissioner had adopted this method of granting permits on four-monthly basis pending the decision with regard to nationalisation policy so that no complications are created if the Government decides to nationalise all the routes lying in the Pepsu area. It has been mentioned in the impugned order of the State Transport Commissioner (copy annexure A to the writ petition) that "the earlier extension up to Hathur is not to be counted as it has been done on regular basis and the new regular extension is the original permit." In the permit, the date of its operation is stated to be from July 1, 1970, to June 30, 1973, that is, for a period of three years although the order of the State Transport Commissioner is dated March 30, 1971, and the permit issued bears the date April 30, 1971. This permit makes it clear that the previous renewal of the permits on four-monthly basis was in the nature of a regular permit being issued on four-monthly basis and not that temporary permits for four months were being issued successively which could not be done.

(6) There is another way of looking at the matter. It is admitted that originally the permits for the route from Barnala to Diwana

were regular permits issued to respondent 3 from time to time and those permits were granted temporary extension up to Hathur and thereafter up to Jagraon on regular basis. The order of the State Transport Commissioner can also be considered as granting new regular permits on Barnala-Jagraon route because it is admitted by the learned counsel for the appellant that the procedure prescribed by section 57 of the Act was followed in this case. If at all, the grievance should be on the side of respondent 3 that the period of its permits was reduced by nine months, that is, the order having been passed on March 30, 1971, the permit was issued from July 1, 1970. But, we fail to understand how the appellant can make a grievance thereof. This submission of the learned counsel is also repelled.

(7) For the reasons given above, we find no merit in this appeal which is dismissed with costs. Counsel's fee Rs. 200 to be shared equally by respondents 2 and 3.

N.K.S.

APPELLATE CRIMINAL

Before Gopal Singh and D. S. Tewatia, JJ.

GURMUKH SINGH, ETC.,—*Appellants.*

versus

THE STATE OF PUNJAB,—*Respondent.*

Criminal Appeal No. 424 of 1969.

August 28, 1972.

Indian Penal Code (XLV of 1860)—Section 307—Scope of—Accused person firing gun from a distance—Shot striking the victims on the chest but not causing death—Such accused—Whether guilty of an offence under section 307.

Held, that section 307, Indian Penal Code, provides that person shall be deemed to have committed an offence of attempt to murder if he does any act with such intention or knowledge and under such circumstances that if he by that act caused death, he would be guilty of murder. In order that an accused person may be held guilty of the offence of an attempt to commit murder under section 307, I.P.C., the prosecution must show that the act done by the accused was done with such intention or knowledge and under such circumstances that if by that act he caused death, he would be convicted for offence under section 302. However, if the act has been