

**In the High Court of Punjab and Haryana at Chandigarh**

(227)

**CWP No. 10826 of 2020  
Date of Decision: 28.11.2023**

Krishan and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR  
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Ravi Dutt Sharma, Advocate  
for the petitioners.

Mr. Ankur Mittal, Addl. A.G., Haryana with  
Mr. Saurabh Mago, DAG, Haryana.

Mr. Rakshit Gupta, Advocate for  
Mr. Rakesh Gupta, Advocate  
for respondent No. 5-Gram Panchayat.

Mr. Priyavrat Prashar, Advocate  
for respondents No. 6 and 9.

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**SURESHWAR THAKUR, J. (ORAL)**

1. One Bhan Singh instituted an application under Section 7(2) of the Punjab Village Common Lands (Regulation) Act, 1961 (for short 'the Act of 1961') impleading therein the encroachers, upon the pandhayat land(s) concerned. On the said application, a decision was made on 24.9.1997 (Annexure P-5), whereby the present petitioners, respondents therein were ordered to be evicted from the petition land(s).
2. The aggrieved judgment debtors filed thereagainst an appeal bearing No. 3/97/A. However, on the said appeal, a decision adversarial to the petitioners became recorded on 30.8.2000 (Annexure P-6).
3. Being aggrieved from Annexure P-6, the petitioners instituted a

revision petition before the Revisional Court concerned. However, the said revision petition became dismissed in default thus through an order made thereons, on 9.5.2008 (Annexure P-7).

4. Since the dismissal in default of the revision petition (supra) did not result in the said order becoming strived to be recalled, nor when the said dismissal in default of the revision petition (supra) became challenged before this Court. Consequently, binding and conclusive effect rather is acquired by the verdict of eviction (supra), as became rendered in the year 2000, by the statutory appellate authority below.

5. The decree holder concerned, instituted an execution petition in the year 2015, seeking thereby the execution of the above binding and conclusive orders of eviction. The above execution petition resulted in warrants of possession becoming issued through an order, as enclosed in Annexure P-9.

6. The learned counsel for the petitioners becomes aggrieved from Annexure P-9. He submits, that since the verdicts of eviction (supra), through for reasons (supra), have acquired a binding and conclusive effect, they are yet non est, as the statutory authorities below constituted under the Act of 1961, were not bestowed with any able jurisdiction to order for the eviction of the present petitioners from the petition land(s). He rests the above submission on the ground, that in the column of ownership, the Gram Panchayat concerned, is entered as owner. Resultantly, he argues, that in respect of the said entry, the jurisdictional competence to make a valid order of eviction, became rather vested in the Collector constituted under the Haryana Public Premises and Land (Eviction and Rent Recovery) Act, 1972 (for short 'the Act of 1972).

However, for the reasons to be assigned hereinafter, the above

made argument is not amenable for becoming accepted by this Court.

8. Primarily for the reason that the said argument became also raised before the statutory authorities below but the same became rejected. Therefore, when the concurrently made orders of eviction for reasons (supra) acquired conclusivity, and, finality in the year 2000. In sequel, the dismissal of the above motion by the statutory authorities below, and the same becoming agitated much belatedly before this Court, only after issuance of warrants of possession (Annexure P-9), does make the said raised argument to be completely frivolous, the same becoming abandoned with a prolonged duration of time, commencing from the year 2000, and, upto the institution of the instant writ petition before this Court.

9. Consequently, even if assumingly the jurisdictional competence to make valid order of eviction, became vested in the Collector constituted under the Act of 1972, yet there had to be sufficient evidence existing on record thus displaying, that in the revenue record, the disputed land(s) became entered as, *jumla mushtarka malkan*. In case, the said revenue entry exists in the revenue records, thereupon, it could be concluded by this Court, that after the consolidation officer, making a pro rata cut from the lawful estates of the estate holders concerned, thus his reserving the petition land(s) for the benefit of the entire village community, thereby making the Gram Panchayat concerned, to be the able controller, and, manager thereof. Consequently, in the above capacity, bestowed upon the Gram Panchayat concerned viz-a-viz the above genre of revenue entries, the jurisdiction to institute a petition for eviction of the present petitioners, besides to make a valid order of eviction thereons, may have been construed to be ably vested in the authority constituted under the Act of 1973, but not in the authority constituted under the Act of 1961. In the above case, the above made

argument, even if it became belatedly raised, and, even if the verdicts of eviction acquire a binding and conclusive effect, yet when there was no jurisdictional competence in the authority constituted in the Act of 1961, thereupon, the said verdicts could be said to be non est, and/or being devoid of jurisdictional competence.

10. In the above regard, a reading of the reservations made in the consolidation scheme (Annexure P-4), especially qua the disputed land(s), reveals, that the writ land(s) became reserved for cultivation by the Gram Panchayat concerned. It is nowhere mentioned in column No. 28, as appertaining to the disputed land(s), that the said reservation, as made viz-a-viz the Gram Panchayat concerned, was thus made after a pro rata cut being imposed by the consolidation officer concerned, from the lawful estates of the estate holders concerned. In consequence, the said reservation(s) of land, is deemed to have been made, thus from the land(s) of the estate holders concerned, who were holding them, rather in excess of their lawful entitlements thereof, especially given such assumed possession over the disputed land(s) by the estate holders concerned, rather being not in terms of their lawfully held possession, as declared in the pre consolidation records.

11. The above manner of reservations of the disputed land(s) viz-a-viz the Gram Panchayat concerned, does not make the disputed land(s), to be jumla mushtarka malkan, nor thereby the mere occurrence of an entry in the revenue records, making the Gram Panchayat concerned, to be the owner, thus thereby scuttles the jurisdictional competence of the authorities constituted under the Act of 1961, to entertain or to make decision on the relevant motion.

12. In view of the above, the above argument is rejected, and, the concurrently made verdicts of eviction by the authorities constituted in the

Act of 1961, are declared to be made on theirs enjoying the ablest jurisdictional competence to entertain and to make orders of eviction, as are challenged before this Court.

13. Consequently, this Court finds no merit in the instant petition. Accordingly, the instant petition is hereby dismissed.

14. The warrants of possession, if not executed, be forthwith executed at the instance of the Executing Court concerned.

15. The pending application(s), if any, is/are also disposed of.

**(SURESHWAR THAKUR)**  
**JUDGE**

**(SUDEEPTI SHARMA)**  
**JUDGE**

**November 28, 2023**  
**Gurpreet**

**Whether speaking/reasoned : Yes/No**  
**Whether reportable : Yes/No**