

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-13438-1992

Decided on : 30.06.2015

Lala Ram

..... Petitioner

VERSUS

The Collector, Kurukshetra and others

..... Respondents

CORAM: **HON'BLE MR. JUSTICE RAJIVE BHALLA**
 HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: **Mr.Arvind Singh, Advocate, for the petitioner.**

**Mr.D.Khanna, Addl.A.G., Haryana,
for respondents No.1 and 2.**

**Mr.Anil Ksheterpal, Senior Advocate, with
Mr.Maninder Saini, Advocate, for respondent No.3.**

RAJIVE BHALLA, J. (ORAL)

The petitioner challenges orders dated 09.03.1992 and 20.05.1992, passed by the Assistant Collector, Ist Grade, Kurukshetra and the Collector, Kurukshetra, respectively, ordering the petitioner's eviction and dismissing his appeal.

Counsel for the petitioner submits that the land, in dispute, abuts the petitioner's house and was allotted to the petitioner's predecessors as a *bara*, during consolidation. The petitioner has been using the land for storing fodder/firewood and tethering cattle. Even otherwise, as the land, in dispute, is situated within *abadi deh*, the Gram Panchayat has no right, title or interest much less any right to seek the petitioner's eviction. As an

alternative argument, counsel for the petitioner states that in case the impugned orders are affirmed, the petitioner may be granted an opportunity to approach the Gram Panchayat, under Rule 12(4) of the Punjab Village Common Lands (Regulation) Rules, 1964 (hereinafter referred to as the 'Rules') (as applicable to the State of Haryana), for purchase of the land, in dispute.

Counsel for the Gram Panchayat (respondent No.3) submits that even if it is accepted that the petitioner has been using the land, in dispute, for storing fodder/firewood and for tethering of cattle, the act of storing fodder/firewood and tethering of cattle is a mere act of user that does not translate into a possessory title or a proprietary right that can be protected. The land being vacant land within the *Abadi Deh* of the village vests in the Gram Panchayat, under Section 2(g)(4a) of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as the “1961 Act”) (as applicable to the State of Haryana). The petitioner has no rights, title or interest in the land and has, therefore, rightly been ordered to be evicted.

We have heard counsel for the parties, perused the impugned orders and find no reason whether in fact or in law to interfere much less grant any relief to the petitioner as far as it relates to the petitioner's eviction. Admittedly, even as per the case set up by the petitioner, the land, in dispute, is a *bara* where the petitioner allegedly stores fodder/firewood and tethers cattle. The

act of storing fodder/firewood and tethering cattle is a mere act of user that does not translate into a possessory title or a proprietary right that can be protected under law so as to exclude the rights of the Gram Panchayat particularly in view of Section 2(g)(4a) of the 1961 Act, which postulates that vacant land within the *abadi deh* of the village shall vest in the Gram Panchayat.

Consequently, we affirm the impugned orders but as counsel for the petitioner has prayed that the petitioner may be allowed to approach the Gram Panchayat for purchase of the land, in dispute, dismiss the writ petition with liberty to the petitioner to file an appropriate application before the Gram Panchayat, under Rule 12 (4) of the Rules. In case, such an application is filed, it shall be considered and decided by the Gram Panchayat within three months from today. The Gram Panchayat shall not interfere with the possession of the petitioner for a period of three months.

[RAJIVE BHALLA]
JUDGE

30.06.2015
Shamsher S.Sabharwal

[AMOL RATTAN SINGH]
JUDGE