

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

CWP No.16604 of 1992 (O&M)

Date of Decision: 16.02.2015

Murti Singh & Ors.

... Petitioners

VS.

Assistant Collector,
Ist Grade, Mohindergarh & Ors.

... Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE RAJ MOHAN SINGH**

1. Whether Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporters or not?

3. Whether the judgment should be reported in the Digest?

Present: Mr. DS Bali, Senior Advocate with
Ms. Neetu Singh, Advocate for the petitioners

Mr. RKS Brar, Addl. AG Haryana

Mr. RKGupta, Advocate for respondent NO.3

SURYA KANT, J. (Oral)

(1) The petitioners have been ordered to be evicted from the land in dispute vide orders dated 30.04.1991 and 26.08.1992 (Annexure P6 & P7) passed by the Assistant Collector 1st Grade, Narnaul and Collector Mohindergarh at Narnaul, respectively. Both these orders are cyclostyled copies of the orders dated 30.04.1991 and 26.08.1992 passed by the authorities in CWP No.16602 of 1992 (Smt. Kamla Devi & Ors. vs. The Assistant Collector Ist Grade, Mohindergarh).

(2) The authorities while deciding the eviction petition under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 filed by the Gram Panchayat held that the petitioners and their

predecessor-in-interest could not prove their continuous possession over the suit land prior to 26.01.1950 and that there is already an eviction order passed in the year 1976.

(3) Despite our query the eviction order of 1976 has not seen the light of the day and thus no comment can be made with regard thereto, there is yet another aspect in the matter. As per the revenue record (Annexure P1 to P5) it does appear that suit land is *patti* land and whether such land deserves to be excluded from *shamlat deh* under Section 2(g)(ii) or that it does not fall within the exclusion clause, has not been considered by the authorities while passing the impugned orders.

(4) It does appear to us that it is imperative upon the authorities to bring on record the 1976 eviction order, if any, and also to respond to the above-stated question.

(5) At this stage, Mr. Gupta states that the possession of the land has already been taken from the Gram Panchayat through police help and a rapat roznamcha has also been entered to this effect.

(6) In this view of the matter, there may not be any restitution of possession till the matter is decided by the authorities in accordance with law.

(7) For the reasons afore-stated, we set aside the impugned orders dated 30.04.1991 and 26.08.1992 (Annexure P6 & P7) but without any restitution of possession. The Assistant Collector, 1st Grade, Mohindergarh is directed to decide the case afresh in the light

of the observations made hereinabove within four months from the date of receipt of a certified copy of this order.

(8) Parties are directed to appear before the Assistant Collector 1st Grade, Mohindergarh at Narnaul on 23.03.2015. The Deputy Commissioner, Narnaul shall ensure that the Gram Panchayat is duly represented before the said authority.

(9) Let a copy of this order be handed over to Mr. RKS Brar, Addl. AG Haryana for information and onward transmission to the quarter concerned.

(Surya Kant)
Judge

16.02.2015
vishal shonkar

(Raj Mohan Singh)
Judge