

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.

CWP No.3514 of 1993

Date of decision: 6.7.2015

Ramdeva and others

... Petitioners

Versus

The Commissioner, Gurgaon and others

... Respondents

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

Present: Mr.Ajay Jain, Advocate,
for the petitioners
Mr.D.Khanna, Addl.AG, Haryana,
for respondents No.1 to 4.
Mr.M.L.Saini, Advocate,
for respondent No.5-Gram Panchayat
...

RAJIVE BHALLA, J. (Oral)

The petitioners challenge order dated 30.4.1990 (Annexure P-1) passed by the Assistant Collector Ist Grade, Narnaul, and order dated 19.10.1992 (Annexure P-3) passed by the Commissioner, Gurgaon Division, Gurgaon.

Counsel for the petitioners submits that as the Gram Panchayat obtained an ex parte eviction order against the petitioners, the petitioners filed a suit under Section 13-A of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter to be referred as

“the 1961 Act”), asserting their ownership. The Assistant Collector Ist Grade, dismissed the suit vide order dated 30.4.1990 but the Collector allowed the appeal, vide order dated 18.12.1990 and held that the petitioners are owners in possession of the land in dispute. The Commissioner has vide order dated 19.10.1992 set aside the order passed by the Collector by holding that as Section 13-A of the 1961 Act prescribes a limitation of five years for approaching the Assistant Collector Ist Grade, the suit is barred by limitation. Counsel for the petitioners submits that Section 13-A of the 1961 Act was deleted by Act No. 9 of 1992 and when re-enacted, does not prescribe a period of limitation. The hyper technical ground taken by the Commissioner while rejecting the suit under Section 13-A of the 1961 Act may, therefore, be rectified by quashing the order.

Counsel for the Gram Panchayat vehemently contends that once the suit is barred by limitation, the mere fact that the provision is subsequently deleted, it does not condone the act of filing a delayed suit. The impugned order passed by the Commissioner holding that the suit filed under Section 13-A of the 1961 Act is barred by limitation is legal and valid.

We have heard counsel for the parties and perused the impugned orders.

The learned Commissioner while setting aside the order passed by the Collector has held that as on the date of filing of the suit,

Section 13-A of the 1961 Act prescribed a period of limitation of five

years, the suit filed by the petitioners before the Assistant Collector Ist Grade five years after the cause of action arose from the ex-parte eviction order, is barred by limitation. The petitioners' contention that as Section 13-A of the 1961 Act was deleted and the newly amended provision does not prescribe any limitation, the suit would be deemed to have been filed within limitation is entirely misplaced. Admittedly, on the date of filing of the suit, under Section 13-A of the 1961 Act, on the date of passing of the order by the Collector and on the date of passing of the order by the Commissioner, Section 13-A of the 1961 Act, prescribed a period of five years for filing a suit. Section 13-A of the 1961 Act, as it existed on the statute book at the relevant time, was required to be enforced by the authorities, the mere fact that it was repealed or replaced by a provision that does not prescribe a period of limitation, is irrelevant. The petitioners, therefore, had no right to approach the Assistant Collector Ist Grade after the expiry of five years.

At this stage, counsel for the petitioners prays that as the petitioners constructed their houses about five decades ago, liberty may be granted to the petitioners to approach the Gram Panchayat, under Rule 12(4) of the Punjab Village Common Lands (Regulation) Rules, 1964, for purchase of the land in their possession.

In view of what has been recorded above, the impugned orders are affirmed and the petition is dismissed, but with liberty to the petitioners to file an appropriate application under Rule 12(4) of the Punjab Village Common Lands (Regulation) Rules, 1964, praying for

purchase of the land in dispute. In case such an application is filed, it shall be heard and decided by the Gram Panchayat within six months from today.

Dispossession of the petitioners shall remain stayed for this period of six months.

(RAJIVE BHALLA)
JUDGE

6.7.2015
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(AMOL RATTAN SINGH)
JUDGE