

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

CRM No. M. 25819 of 2014 (O&M)

Date of decision 14 .01.2015.

Mangat Ram and others

..... Petitioners.

versus

State of Haryana & others

..... Respondents.

CORAM :- HON'BLE MR.JUSTICE K.C.PURI.

1. Whether Reporters of Local Newspapers 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. Manoj Chahal, Advocate, for petitioner.

K.C.PURI, J.

Petitioners Mangat Ram and others have directed the present petition under Section 482 of the Code of Criminal Procedure (in short – the Cr.P.C.) for quashing the impugned orders dated 29.01.2014 (Annexure P-3) passed by learned Additional Sessions Judge, Panipat and dated 21.12.2010 (Annexure P-2) passed by learned Sub Divisional Magistrate, Panipat and to issue directions to the

respondent No.3 (receiver) and respondent No.5 to hand over the possession of land taken from the petitioners at the time of attachment along with all the benefits from the date of attachment till handing over the possession of the same.

2. The facts of the present case in brief are that Station House Officer, Police Station Ishrana presented a Kalandra dated 18.06.1996 under Section 145 of the Cr.P.C. alleging that the land measuring 35 acres, 1 kanal and 6 marlas belonged to Jumla Malkan cultivated by petitioner No.2 and some other persons. In the year 1991-92 Government of Haryana had given the Jumla Malkan land, Panipat to Gram Panchayat, which is in dispute. The land in dispute remained under the Gram Panchayat till 1994 and mutation and Gridawari came into the name of panchayat and the Gram Panchayat used to give this land on patta in the auction. Against this order of Haryana Government, ex-cultivators of the land filed a petition before this Court and this Court decided the matter in favour of Jumla Malkan namely Jile Singh and Karan Singh etc. Petitioner No.2 obtained a stay order from Panipat Court on the auction by Gram Panchayat in respect of the suit land after the decision of the court and some cultivators also got injunction order against the shares of Jumla Malkan not to interfere in the suit land, therefore, the persons could cultivate the Jumla Malkan land under his possession. Inhabitants of the village had objected and shown their rights in the Jumla Malkan land which could not be allowed to cultivate by petitioners on which there was

apprehension of breach of peace. Therefore through Kalandra dated 18.06.1996 the Jumla Malkan land was taken into possession under Section 145 of the Cr.P.C. and for passing of further appropriate orders.

3. It is further alleged that after receiving the Kalandra dated 18.06.1996, District Development and Panchayat Officer, Panipat initially passed order dated 25.7.1996 and appointed BDPO Ishrana as receiver after attaching the land under Section 146 of the Cr.P.C.

4. After hearing learned counsel for the parties, the Sub Divisional Magistrate, released the land from Section 146 of the Cr.P.C. and BDPO Ishrana was directed to hand over the possession of the suit land to the Gram Panchayat Bhaupur according to rules vide order dated 21.12.2010.

5. Feeling dissatisfied with the order dated 21.12.2010, the petitioners have preferred revision against the impugned order.

6. The learned Additional District Judge, Panipat, vide order dated 29.01.2014 dismissed the revision and affirmed the order dated 21.12.2010.

7. Still feeling dissatisfied with both the aforesaid orders, the present petition has been directed by the petitioners.

8. Learned counsel for the petitioners has submitted that in Civil Suit No. 408 of 1995 decided on 28.10.1998, the decree of permanent injunction has been passed in favour of the petitioners in respect of Rectangle No. 70 Killa No. 11 (8-

0). So, the possession of the suit land should have been handed over by the receiver to the petitioners.

9. I have considered the submissions made by learned counsel for the petitioners, but do not find any force in the same.

10. It is not disputed during the course of arguments that mutation of suit land was attested in the favour of Gram Panchayat in the year 1992. It is also not disputed during the course of arguments that the said mutation has not been challenged by the petitioners in the competent court. It is settled law that the land used for common purposes vests in the Gram Panchayat. The petitioners have failed to prove their possession over the suit property. At the time of taking possession by the receiver, the order was passed by S.D.M, Panipat on 21.12.2010. The said order was challenged before the revisional court. The said revision was also dismissed vide order dated 29.01.2014 passed by Additional Sessions Judge, Panipat. Both the courts below have observed that neither the petitioners are owner, nor in possession of the suit property. So, that finding cannot be challenged before this court in the instant revision petition.

11. So far as authority “*Ranbir Singh vs. Dalbir Singh*” 2002 (2) RCR (Criminal) 275 is concerned, the ratio of said authority is that the court is mainly concerned with the possession of the property on the date of preliminary order and dispossession, if any, within two months. There is no dispute to the said proposition

of law. The petitioners have failed to prove their possession over the suit property.

12. So, in view of the above discussion, no ground for interference by this court is made out.

Dismissed.

JANUARY 14, 2015

shalini

(K. C. PURI)

JUDGE