

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

Civil Writ Petition No.12443 of 2015

Date of Decision: 29.06.2015

Kulbir Singh and others

..... Petitioners

Vs.

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Baljinder Singh Sra, Advocate for the petitioners.

Mrs. Naiya Gill, Advocate for respondent No.4/Caveator.

JASWANT SINGH, J. (Oral)

Petitioner Nos.1 and 2 i.e. Kulbir Singh and Sukhbir Singh, respectively, are sons of Gurmukh Singh/petitioner No.3.

In the instant writ petition, petitioners have sought the quashing of the impugned appellate order dated 01.10.2014 (**Annexure P-4**), passed by the Commissioner exercising appellate jurisdiction under Section 9 of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 (for short “1973 Act”), whereby the *ex parte* order dated 02.02.2012 (**Annexure P-2**), passed by the Collector under the 1973 Act evicting the petitioners from the public premises/property in question has been upheld, while dismissing the appeal of the petitioners.

The land in question is measuring 3 Kanals and 15 Marlas bearing Khasra No.20//1/1 Khata Khatuni No.324-571 situated in Village Jallupur Khera, Tehsil Baba Bakala, District Amritsar.

The petitioners claimed to be in possession of the said land in dispute for the last more than 20 years and have allegedly constructed a “Haveli” along with the courtyard.

It is not in dispute that the petitioners had earlier filed a suit for injunction seeking to restrain the defendants from interfering into the peaceful possession of the plaintiffs/petitioners over the said land and the same was decreed, whereby the Gram Panchayat was restrained from interfering into their peaceful possession except in due course of law.

Subsequently, the Gram Panchayat on 19.07.2011 filed an application under Section 4/5/7 of the 1973 Act seeking ejectment of the petitioners herein from the land in question and for recovery of the amount of compensation for use of occupation on the basis of the Jamabandi for the year 2004-2005.

It is not in dispute that petitioner No.1-Kulbir Singh and his father Gurmukh Singh-petitioner No.3 appeared on 29.09.2011 and sought time to file reply. Other brother-Sukhbir Singh/petitioner No.2 concededly is in the police force. Subsequently, the petitioners were given sufficient opportunities for filing reply but no reply to the ejectment application was filed. Thereafter, due to non-appearance of the petitioners or their Counsel, they were ordered to be proceeded against *ex parte* and thereafter an *ex parte* ejectment order was passed on 02.02.2012 (P-2).

The petitioners herein filed an appeal before the Commissioner on 24.05.2012 seeking the setting aside of the *ex parte* order dated 02.02.2012. The said appeal has been dismissed, vide impugned order dated 01.10.2014 (**Annexure P-4**).

Learned Counsel for the parties have been heard at length.

It is not in dispute that as per the jamabandi, the land has been recorded as “Jumla Mushtarka Malkan” and the management of the same vests with the Gram Panchayat. Thus, it cannot be disputed that the land in question falls within the definition of the Public Premises under the 1973 Act permitting the Gram Panchayat to initiate action under the 1973 Act. It is also apparent that the petitioners were duly served and had deliberately chosen to stay away from the proceedings after initially putting their appearance and availing sufficient time to file reply.

Merely, the petitioners have continued in possession for a very long period does not preclude the Gram Panchayat from seeking possession under the 1973 Act by following due procedure.

In the facts of the present case, sufficient indulgence have already been granted by not ordering recovery of any compensation for unauthorized use in occupation of the public premises. No further indulgence can be extended to unscrupulous litigants like the petitioners. The impugned orders are well founded warranting no interference.

In view of the above, finding no merit in the present writ petition, the same is hereby dismissed. No costs.

June 29, 2015

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**(JASWANT SINGH)
JUDGE**