

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

Civil Writ Petition No.12994 of 2015
Date of Decision: 17.7.2015

Anup Singh ..Petitioner

versus

Joint Development Commissioner (IRD), Punjab & others

..Respondents

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

Present: Mr. Manish Kumar Singla, Advocate, for the petitioner.

Mr. Gurpreet Singh Dhillon, Advocate,
for respondent no.3.

RAJIVE BHALLA, J. (ORAL)

The writ petition came up for hearing on 02.7.2015. After considering submissions made by counsel for the petitioner, the following order was passed:-

“ The petitioner prays for issuance of a writ of certiorari, quashing orders dated 24.02.2015 and 18.6.2015, passed by the District Development and Panchayat Officer, Sangrur and the Joint Development Commissioner (IRD), Punjab, ordering the eviction of the petitioner, under the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 (hereinafter to be referred to as “the Act”) and dismissing his appeal respectively.

Counsel for the petitioner submits that as the land in

dispute is admittedly recorded as “Jumla Mushtarka Malkan” and Consolidation documents reveal that it was not reserved for any common purpose, the land does not vest in the Gram Panchayat. Counsel for the petitioner further submits that question whether the land was or not reserved for common purposes during Consolidation, is pending adjudication before the Additional Civil Judge (Sr. Division), Moonak. The petition for eviction was, therefore, not maintainable.

We have heard counsel for the petitioner and as admittedly the land was recorded as “Jumla Mushtarka Malkan” during Consolidation, the land in dispute, as on date, vests in the Gram Panchayat for management and control (reference may be made to sections 18 and 23-A of the East Punjab Holdings (Consolidation and Prevention of fragmentation) Act, 1948 and Rule 16(2) of the East Punjab Holdings (Consolidation and Prevention of fragmentation) Rules, 1949). The Gram Panchayat was, therefore, empowered, under the Act to file and the authority, under the Act to entertain, the eviction petition. A perusal of the impugned orders reveals that as regards the petitioner's eviction, there is no illegality much less any error of jurisdiction. The question of ownership or the vesting of the land in the Gram Panchayat is irrelevant at this stage as the land is “Jumla Mushtarka Malkan” and there is no declaration by any Court that the land does not

vest in the Gram Panchayat, for management and control. The question of ownership would necessarily have to await outcome of the civil suit filed by other co-sharers, which includes the land in dispute.

At this stage, counsel for the petitioner states on telephonic instructions received from Angrez Singh son of Harjinder Singh resident of Shahpur Nau Abad @ Theri, tehsil Moonak, District Sangrur, Special Attorney of Anoop Singh, that as the petitioner has sown paddy crop in the land in dispute, he undertakes to vacate the land and hand over vacant possession to the Gram Panchayat by 01.11.2015, subject, however, to the Gram Panchayat restoring the land to the proprietors, in case the civil suit is decreed in favour of proprietors.

We have considered the request made by the petitioner and while rejecting challenge to the eviction order, and holding that the question of title would depend upon the outcome of the civil suit, take cognizance of the statement made by the counsel for the petitioner and issue notice to respondent No.3 for 17.07.2005, limited to the statement made by counsel for the petitioner.

Process dasti only.

Parties shall maintain status quo with respect to possession, till the next date of hearing. The petitioner shall be bound by the statement made by his counsel, failing which the writ petition shall be dismissed.”

Counsel for the Gram Panchayat states that he has instructions, to accept the offer made by the petitioner, recorded in order dated 02.07.2015, however, with liberty to the Gram Panchayat, to seek damages by resort to appropriate remedy.

We have heard counsel for the parties.

Taking into consideration the statement made by counsel for the petitioner, recorded in order dated 02.07.2015 and statement made by counsel for the Gram Panchayat, the writ petition is disposed of by granting liberty to the petitioner to harvest the standing crop. The petitioner shall remain in possession of the land in dispute, upto 01.11.2015. The petitioner shall deliver actual physical possession of the land in dispute, to the Gram Panchayat on or before 01.11.2015, failing which the Gram Panchayat shall be at liberty to execute the order of eviction and also approach this Court for initiation of proceedings under the Contempt of Courts Act, 1971, against the petitioner. The Gram Panchayat shall also be at liberty to claim damages by resort to an appropriate remedy.

(RAJIVE BHALLA)
JUDGE

(AMOL RATTAN SINGH)
JUDGE

17.7.2015
VK