

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 204

1. **Date of Decision:** *September 15, 2015*
Civil Writ Petition No.1391 of 2014

Dharam Singh

..... PETITIONER(S)

VERSUS

State of Haryana & others

..... RESPONDENT(S)

. . .

2. **Civil Writ Petition No.1377 of 2014**

Chet Ram

..... PETITIONER(S)

VERSUS

State of Haryana & others

..... RESPONDENT(S)

. . .

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

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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?

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PRESENT: - Mr. Bhupender Singh, Advocate, for the
 petitioner.

Ms. Kirti Singh, Deputy Advocate General,
Haryana.

Mr. S.S. Kharb, Advocate, for respondent No.5
– Gram Panchayat.

Mr. Sandeep Verma, Advocate, for respondent
Nos.6 to 10.

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Surya Kant, J (Oral)

1. This order shall dispose of CWP No.1391 of 2014 and CWP No.1377 of 2014 as both the petitions involve common question of law and facts.

2. Facts are taken from CWP No.1391 of 2014.

2. In this second round of litigation, the petitioner has challenged the orders dated 17.11.2009, 14.9.2010 and 14.3.2013 (P-1, P-2 & P-3, respectively) passed by the Assistant Collector, Ist Grade, Panipat; Collector, Panipat; and Commissioner, Rohtak Division, respectively, whereby he has been ordered to be evicted from the land measuring 8 kanal situated within the revenue estate of village Nara, Sub-Tehsil Madlauda, District Panipat, on acceptance of the eviction application filed under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961, as applicable to the State of Haryana (for short, 'Act').

2. It may be mentioned at the outset that in the previous round, this Court vide Order dated 17.3.2009 passed in CWP No.5538 of 2006 and other connected cases (P-4), remanded the case to Assistant Collector, 1st Grade, with a specific direction "to decide the question of title as laid down in Section 7 of the Act".

3. We find that the petitioner claimed ownership qua the subject land and raised such plea before the Assistant Collector on the strength of civil court judgment and decree dated 20.11.1965 (Ex.R-1). He also asserted his possession since the time of his fore-fathers.

4. Unfortunately, Assistant Collector, while returning the findings did not refer to the afore-mentioned civil court judgment. It is thus not known whether the said judgment has any relevance on the question of title.

5. The Appellate as well as Revisional authorities also committed the same error.

6. Learned counsel for the contesting respondents has rightly contended that mere exhibition of civil court judgment would not entitle the petitioner to seek shelter thereunder unless he further proves that; (i) he is son of same Munshi who had filed the civil suit, decided vide the above mentioned judgment; (ii) the subject land is the same piece of land which was subject matter of the civil suit; (iii) his father Munshi and thereafter the petitioner/their family has been in continuous possession of the suit land.

7. As the issues illustrated above and/or any other allied question that may arise for consideration were not specifically formulated by the Assistant Collector, it is obvious

that no categorical answer is also discernible from the impugned orders. The resultant inference is that the direction issued by this Court on 17.3.2009 in the earlier case(s) has not been complied with in its true letter and spirit.

8. In these circumstances, when the question of title goes to the root of the matter, there appears to be no exception but to set aside the impugned orders and remit the case again to the Assistant Collector, 1st Grade to formulate the issues as illustratively mentioned in Para No.6 of this order and then answer the same in specific. In the interest of justice, only one opportunity shall be granted to each party to lead their additional evidence, if need be. The Assistant Collector is directed to decide the matter afresh before 31.12.2015.

9. Parties are directed to appear before the Assistant Collector, 1st Grade, Panipat on 12.10.2015.

10. This order shall not be taken as an expression of opinion on the merits of the case.

11. Disposed of.

(Surya Kant)
Judge

(Jaspal Singh)
Judge

September 15, 2015
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