

Sr.No.204
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.13943 of 2014
Date of decision: 03.08.2015

Swaran Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

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

Present: Mr. B.S.Saini, Advocate,
for the petitioner.

Mr. P.S.Bajwa, Addl. A.G., Punjab,
for respondents No. 1 to 3.

Mr. Nakul Sharma, Advocate,
for respondent No.4.

RAJIVE BHALLA, J. (ORAL)

The petitioner prays for issuance of a writ in the nature of certiorari, for quashing orders, dated 02.01.2009 and 18.11.2011 passed by the Collector/DDPO, Fatehgarh Sahib and the Director Rural Development and Panchayat Department, Punjab, respectively ordering the petitioner's eviction and dismissing her appeal.

Counsel for the petitioner submits that a perusal of jamabandi for the year 2001-02, reveals that the land, in dispute, is jointly owned by the Nagar Panchayat and Ajaib Singh, Bahadur Singh, Harbans Singh and Darshan Singh, sons of Surjan Singh. The petitioner obtained this land from Ajaib Singh etc., constructed a small room and installed a hand pump. The Gram Panchayat cannot seek the petitioner's eviction without identifying the portion of land

that falls to the share of the Gram Panchayat. The impugned orders, holding that the petitioner has no right, title or interest in the land, in dispute, have been passed by disregarding an affidavit sworn by Ajaib Singh, son of Surjan Singh, that the petitioner has been in possession of the property for the last 20 years.

Counsel for the Gram Panchayat submits that even if it is presumed that the Gram Panchayat and Ajaib Singh etc. are co-sharers, a co-sharer is not prohibited from initiating proceedings to evict an unauthorized occupant of joint land. In the absence of any evidence regarding the proprietary rights of Ajaib Singh etc., the revenue entry is meaningless. The petitioner is taking advantage of a wrong entry in the jamabandi and as she has no right, title or interest in the land, in dispute, she is an unauthorized occupant, who has encroached upon land abutting a school that belongs to the Gram Panchayat.

We have heard counsel for the parties and perused the impugned orders but are not inclined to grant any relief to the petitioner except to the extent of granting liberty to the petitioner to approach Gram Panchayat, for purchase of the land, in dispute, under Rule 12 (IV) of the Punjab Village Common Lands (Regulation) Rules, 1964.

Admittedly, column No.4 of the jamabandi, for the year 2001-2002, records the Nagar Panchayat as owner of 13019/13960 share and Ajaib Singh etc. as owners of 941/13960 share. Presuming that the Gram Panchayat and Ajaib Singh are co-sharers, the Gram Panchayat, as a co-sharer, is not prohibited from seeking

the eviction of an unauthorized occupant. The petitioner has not been able to establish any rights, title or interest, in the land in dispute much less any right that Ajaib Singh may have passed on to her whether by way of a lease, a sale, a mortgage or any other mode of transfer known to law, so as to clothe her with any possessory or proprietary right against a true owner, in this case the Gram Panchayat. The petitioner relies upon an affidavit filed by Ajaib Singh before the Collector but admittedly the affidavit, merely records that the petitioner is in possession of land, in dispute. This apart a perusal of the evidence on record reveals that the petitioner has not been able to establish, by way of any cogent evidence that she is in possession under any legal right that may prohibit the Gram Panchayat from seeking and the authorities from ordering her eviction.

Consequently, finding no merit in the writ petition, the impugned orders are affirmed and the writ petition is dismissed but with liberty to the petitioner to approach the Gram Panchayat by way of an application under Rule 12 (IV) of the Punjab Village Common Lands (Regulation) Rules, 1964, for purchase of the land, in dispute, provided she is able to prove that she has constructed a house and is residing therein. The application so filed shall be considered and decided in accordance with law.

(RAJIVE BHALLA)
JUDGE

03.08.2015

(AMOL RATTAN SINGH)
JUDGE