

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Civil Writ Petition No.16322 of 2015

Date of Decision: August 10, 2015

Santokh Singh and others

.....Petitioners

versus

Director, Department of Rural Development and Panchayat
and others

.....Respondents

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

Present: Mr.Navkesh Singh Goraya, Advocate,
for the petitioners.

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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?*

Surya Kant, J. (Oral)

The petitioners are residents of village Mial, Block and Tehsil Samana, District Patiala. They are aggrieved by the orders dated 25.03.2013 (P-3), 29.04.2014 (P-6) and 12.03.2015 (P-8), whereby the eviction application filed under Section 7 of the Punjab Village Common Land (Regulations) Act, 1961 (for short, 'the Act'), by the Gram Panchayat of their village was allowed and their appeal and revision petition have been dismissed by the authorities under the Act.

[2] The petitioners resisted the eviction proceedings primarily on the ground that they are in physical possession of the suit land even before the consolidation took place and they being in it actual physical possession since 26.01.1950, the subject land does not fall within the definition of shamlat deh. The locus-standi of the Gram Panchayat and/or the jurisdiction and competence of the authorities was thus questioned.

[3] The Collector, Patiala, as well as the Appellate and Revisional authorities have turned down the petitioners' plea after returning a concurrent finding of fact to the effect that (i) at the time of consolidation, land measuring 268 kanal 12 marlas was taken out from the share of proprietors for the common purposes, out of which land measuring 46 kanal 10 marlas was earmarked as 'cremation ground'; (ii) the land in possession of the petitioners is admittedly shown under the ownership of Nagar Panchayat as per the jamabandi for the year 2006-07 and prior thereto, it was shown under the ownership of Gram Panchayat; (iii) no evidence has been led by the petitioners to prove their individual cultivating possession over the subject land since 26.01.1950; (iv) names of the petitioners in fact appeared for the first time in the jamabandi for the year 1991-92; (v) the land in question is reserved as a 'cremation ground', and (vi) the petitioners never challenged the entries made in the revenue record in favour of the Gram Panchayat.

[4] Faced with the above-stated findings, learned counsel for the petitioners reiterates that the subject land is Mushtarka Malkan, i.e., joint holding of the proprietors and that the petitioners have already instituted a civil suit for declaration in terms of the liberty granted by the Full Bench of this Court in CWP No.2318 of 2002 (Parkash Singh and others versus Joint Development Commissioner, Punjab and others), 2014 (2) RCR (Civil) 721, decided on 08.11.2013.

[5] Having heard learned counsel for the petitioners, we do not find any merit in this writ petition. The categorical finding of facts noticed in the preceding paragraph reveal that the petitioners have failed to show their possession over the

subject-land as on the cut off date of 26.01.1950 and their names first time appeared in the jamabandi for the year 1991-92 only. Since the land is reserved for cremation ground, it is difficult to accept their contention that they have been in its cultivating possession. Similarly, the ownership of Gram Panchayat/Nagar Panchayat is consistently depicted in the revenue record. In this view of the matter, no case to interfere with the orders passed by the authorities is made out.

Dismissed.

[SURYA KANT]
JUDGE

August 10, 2015
mohinder

[JASPAL SINGH]
JUDGE