

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

CWP No.17192 of 2014

Date of Decision:-27.07.2015

Jagga Singh @ Jagdev Singh & Ors.

.....Petitioners.

Versus

State of Punjab & Ors.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Kanwal Goyal, Advocate for the Petitioners.

Ms. Monica Chhibber Sharma, DAG Punjab.

JASWANT SINGH, J.(ORAL)

Prayer in the present petition is for quashing/setting aside the memo no.14/1/01 (Land)2/4635 dated 2.6.2004 (**P-1**) as well as the orders passed by the Authorities below whereby the application of the petitioners for correction of Revenue Khasra Girdawries after spot inspection and taking into consideration Civil Court findings qua possession contained in the judgment dated 5.11.2005 (**P-6**) passed by ADJ Sangrur, has been dismissed.

Learned Counsel for the petitioner has argued that the Authorities below misdirected itself while illegally ignoring the Civil Court decree at the time of passing of the impugned orders. It was also argued that since it was a case of correction of Khasra Girdawri, the Revenue Authorities were duty bound to conduct the physical inspection of the land

at site before passing the impugned orders. Finally, it was submitted that the instructions Annexure P-1 could not have been made the basis for dismissal of the application of the petitioners because same cannot be made applicable throughout the State even on the land like that of the petitioners.

On the last date of hearing, this Court had passed the following order:-

“ The petitioners have been recorded to be in possession of the suit land as tenants, vide judgment and decree dated 05.11.2005 (Annexure P-6), passed by the learned lower Appellate Court/ADJ, Sangrur and in the Regular Second Appeal bearing no.161 of 2006, filed by the State of Punjab, an interim order dated 20.02.2006 has been passed, which reads as under:-

“ Admitted. In the meantime, dispossession of the plaintiffs shall remain stayed provided the plaintiffs deposit damages for use and occupation of the land in dispute @ Rs.6,000/- per acre per year with the Collector under the aforesaid Act, by the end of May and November every year in two equal installments. If the amount is not deposited as directed, the Collector shall be at liberty to execute the order of eviction. The arrears be deposited from the Sawani Crop 2002 onwards by the end of May 2006. The amount so deposited by the plaintiffs shall be kept in a fixed deposit to be paid as per the order passed by this Court. ”

It is apparent thus that there is no stay qua the findings recorded in favour of the present petitioners (plaintiffs therein) regarding the status of their possession as tenants. Therefore, the claim of spot inspection and recording of necessary relevant Khasra Girdawries is justified.

At this stage, learned Counsel for the respondents pays for a week's adjournment to verify the facts.

List on 27.07.2015 for further consideration.

To be taken up in the urgent list. ”

Today the learned Counsel for the respondents has verified the fact that there is no stay qua the findings recorded in favour of the present petitioners in RSA admitted by this Court and further that the possession of the petitioners is not in dispute.

Keeping in view the stand taken by the respondents as well as the peculiar facts and circumstances of the present case, the present writ petition is allowed and the impugned orders passed by the Authorities below are set aside and the Authorities are directed to follow the procedure by conducting the spot inspection and take into consideration the judgment passed by the ADJ, Sangrur dated 5.11.2005 and pass a fresh speaking order on the application. It is also made clear that the instructions dated 2.6.2004 (P-1) shall not come in the way of the Authorities while deciding the application for change of Khasra Girdawries. Needful be done within four weeks from the date of receipt of certified copy of this order.

(JASWANT SINGH)
JUDGE

July 27, 2015
Vinay