

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Civil Writ Petition No.22658 of 2013 (O&M)

Date of Decision: September 08, 2015

Dhian Singh

....Petitioner

versus

Gram Panchayat Waraicha Patti and others

...Respondents

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

Present: Mr.Vikas Singh, Advocate, for the petitioner.
Mr.B.S.Sidhu, Advocate for respondent No.4.
Mr.Ashok Goel, Advocate, for the intervener.

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)

Khasra No.452 within the revenue estate of village Waraichan Patti, Samana, was claimed to be owned by Gram Panchayat of the village who filed eviction proceedings under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 against the petitioner. The Collector-cum-DDPO, Patiala, vide order dated 30.09.2010 (P-2) held as follows:-

“.... In Suit No.183 of 23.10.2000 filed in the Court of Sub-Judge, Samana, Amarjit Singh versus Dhian Singh, there is a report of the Local Commissioner dated 24.05.2001 is Ex.P-7. According to this report, the residential house of Dhian Singh is in Khasra No.452 and he has got an electricity connection. The door of the residential house of Dhian Singh opens in

khasra No.453, in this his house comes only in 10 sq. ft. The respondent belongs to Harijan Community and he has stated that he has no residential house except the house in dispute. There is a site-plan prepared by Sukhwinder Singh Patwari, Samana Circle dated 25.04.2001 alongwith the report of Local Commission Ex. P-7, after leaving his residential Kotha, respondent is evicted from the remaining land mentioned in the head note of the petition.....”

[2] It may be seen that the petitioner was found to have constructed a residential kotha (room) in 10x10 square feet. area in khasra No.452. The Collector protected the petitioner's residential room and ordered his eviction from rest of the land, after giving a finding that the subject land vests in Gram Panchayat.

[3] The appeal etc. was also dismissed. It was found as per entries in the revenue record that the subject land was reserved for Hadda Rori (for skinning and tanning of dead animals). Khasra No.453 also vests in Gram Panchayat as it was a Gair Mumkin Chamra Rogan, i.e. another common purpose.

[4] The aggrieved petitioner has approached this Court.

[5] On 21.10.2013, when this writ petition came up for preliminary hearing, following was contended:-

“.... It is stated by counsel for the petitioner that other than the land falling in Khasra No.452, the petitioner has surrendered possession of rest of the land falling in khasra Nos.451 and 453. It is further stated

that house of the petitioner is situated in khasra No.452 and only small portion measuring 10'x10' has been saved from ejection. It is submitted that house is bigger than the area so saved. It is also stated that for retaining possession of the land falling under construction, the petitioner can be put to terms by the Gram Panchayat....”

[6] Thereafter, the matter came up for hearing on 03.09.2014 when the following order was passed:-

“... Having regard to the facts and circumstances noticed in the impugned orders coupled with the observations made by this Court while issuing notice of motion on 21.10.2013, we are satisfied that it would be in the interest of justice, if about 1 kanal land is left out of the eviction proceedings where petitioner may continue to reside and run his small business of skinning and tanning of the dead animals. The land, to be exempted from eviction, should be in such a manner that maximum part of the construction raised by the petitioner is saved....”

[7] It is stated by Mr.B.S.Sidhu, learned counsel for the contesting respondent No.4-Gram Panchayat of village Waraich Patti, now Nagar Council, Samana, that the petitioner is no longer running the business of skinning and tanning of dead animals.

[8] Learned counsel for the interveners has placed on record photographs to suggest that the petitioner is using the subject site for commercial purposes.

[9] We have heard learned counsel for the parties and gone through the record.

[10] Since the petitioner has no claim whatsoever on khasra Nos.452 and 453 and the Collector has merely protected his possession to the extent of a residential kotha (room), we see no reason to differ with the Collector and/or to interfere in the orders under challenge. Since the petitioner is a non-proprietor of the village, the protection granted by the Collector to his residential room is well justified.

[11] As regard to the petitioner's persistent claim to give him 1 kanal more land, we dispose of this writ petition with a direction that if the petitioner is so willing, he may approach the Deputy Commissioner, Patiala who shall get the market value of the land assessed and beyond the area of residential room of 10'x10' if the petitioner wants more land, his claim for sale of such land at the current market rate may be considered.

[12] Ordered accordingly.

[13] Dasti.

[SURYA KANT]
JUDGE

September 08, 2015
mohinder

[JASPAL SINGH]
JUDGE

CWP No.22658 of 3196 of 2014

[5]

CM No.9899 of 2015 in
CWP No.22658 of 2013

- - -

Dhian Singh versus Gram Panchayat, Waraicha Patti and others

Present : Mr.Ashok Goel, Advocate,
for the applicant.

* * *

For the reasons mentioned in the application, the same is allowed subject to all just exceptions and the applicant-Tejinder Pal son of Madan Lal is permitted to take part in these proceedings as intervener.

CM stands disposed of.

[SURYA KANT]
JUDGE

September 08, 2015
mohinder

[JASPAL SINGH]
JUDGE