

**CWP-7123-2011 and
CWP-15294-2008**

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Date of Decision: 13.10.2015

1. CWP-7123-2011

Krishan Pal and others

... Petitioner(s)

Versus

The Commissioner, Rohtak Division, Rohtak and others

... Respondent(s)

AND

2. CWP-15294-2008

Krishan Lal and another

... Petitioner(s)

Versus

The Commissioner, Ambala Division, Ambala and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the 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 ?

Present: Mr. Ashish Aggarwal, Sr. Advocate with
Mr. Kulwant Singh, Advocatge,
for the petitioners in both the petitions.

Mr. Sandeep S. Mann, Sr. DAG, Haryana.

Ms. Savita Rana, Advocate,
for respondent No.3 in CWP-7123-2011.

Mr. Vikram Singh, Advocate,
for respondent No.4 in CWP-7123-2011.

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Paramjeet Singh, J.

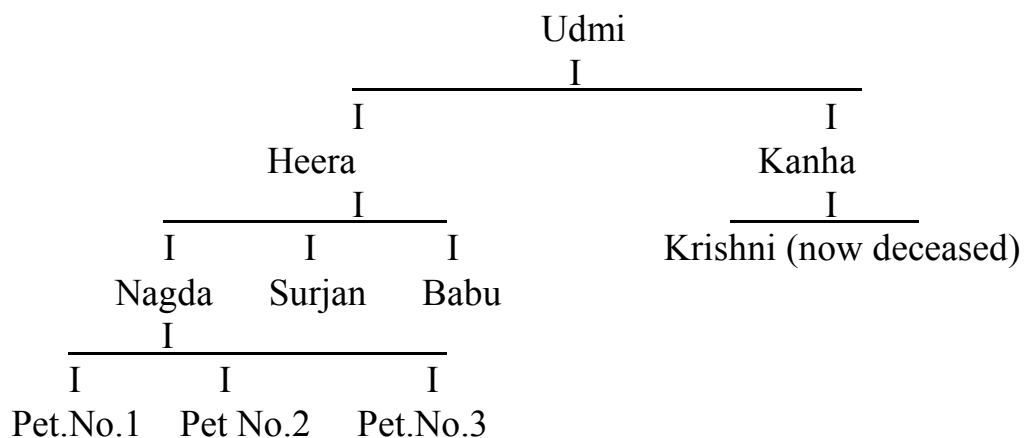
This order shall dispose of CWP-7123-2011, titled as 'Krishan Pal and others vs. The Commissioner, Rohtak Division, Rohtak and others' and CWP-15294-2008, titled as 'Krishan Lal and another vs. The Commissioner, Ambala Division, Ambala and others', as common questions of fact and law are involved in both these petitions.

Before proceeding further, a brief reference to the facts is necessary which are being extracted from CWP-7123-2011.

CWP-7123-2011 has been filed under Articles 226 and 227 of the Constitution of India for setting aside the orders dated 20.01.2011 (Annexure P-24) and 30.08.2007 (Annexure P-22) passed by respondent Nos.1 and 2, respectively, under the provisions of the Haryana Public Premises and Land (Eviction and Rent Recovery) Act, 1972 (for short, 'the 1972 Act').

Brief facts of the case are to the effect that the property in question situate in revenue estate of village Sambhli in District Karnal is the ownership of the Shamilat Panna Mansoor. The predecessors-in-interest of the petitioners have been owners in continuous possession of the land in dispute for the last more than 100 years. The pedigree table of the family of the petitioners is as under:

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One Pala, respondent No.3, who has no right, title or interest in the land in question filed petition under Sections 4, 5, 6 and 7 of the 1972 Act before the Collector for eviction of the petitioners. The stand of the petitioner before the Collector was that land in question is shamilat and on the basis of consolidation proceedings, land of Gram Panchayat has been shown separately.

The only argument raised by learned senior counsel for the petitioners is that since the property is *shamilat panna*, it does not vest in the Panchayat and reference has been made to jamabandi for the years 1904-09(Annexure P-1). In the column of ownership of jamabandi for the years 1940-41 (Annexure P-3), *shamlat panna mansoor mazkoor* has been mentioned with regard to khatoni no.641 whereas in jamabandi for the years 1944-45 (Annexure P-4), *shamilat panna mansoor* has been mentioned with regard to khatoni nos,592 and 642. However, in the subsequent jambandi for the years 1956-57 (Annexure P-5), Gram Panchayat has been shown to be owner of the land. Similarly, in jamabandis for the years 1960-61(Annexure P-6), 1965-66 (Annexure P-

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7), 1970-71 (Annexure P-8), 1975-76 (Annexure P-9), 1980-81(P-10), 1985-86 (Annexure P-11), 1990-91(Annexure P-12), 1995-96 (Annexure P-13), 2000-01 (Annexure P-14), Gram Panchayat has been shown to be owner of the land in dispute. The petitioner has failed to satisfy this Court with regard to the identity of the land. The khasra numbers mentioned in the jamabandis for the year 1904-09(Annexure P-1), 1940-41 (P-4) and jamabandis for the years 1956-57 and onwards do not match nor any document has been brought on record to show old and new khasra numbers.

However, petition filed for eviction of an unauthorized or illegal occupant of a Gram Panchayat land is not maintainable under the provisions of the 1972 Act in the State of Haryana and for that purpose, a petition can be filed under the provisions of the Punjab Village Common Lands (Regulation) Act, 1961 (as applicable to the State of Haryana). In this regard, reliance can be placed upon ***Banwari vs. State of Haryana and others*** 2008(4) RCR (Civil) 431 wherein a Division Bench of this Court held as under:

“9. Inviting the Court's attention to the definition of the term “public premises” for the State of Haryana, it is submitted by the learned counsel for the petitioner, that the land owned by the Gram Panchayat cannot be stated to be included within the definition of the term “public premises” for the State of Haryana, and as such, an ejectment petition cannot be filed in the State of Haryana at the hands

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of a Gram Panchayat for the eviction of an individual allegedly in unauthorized or illegal occupation of land owned by the Gram Panchayat. In order to substantiate his aforesaid contention, learned counsel for the petitioner placed reliance on a Full Bench judgment rendered by this Court in Roshan @ Roshan Lal v. Secretary, Govt. of Haryana, 1998(4) RCR (Civil) 108 : 1998(3) PLR 651, wherein it has been held, that an ejectment petition filed against a person in unauthorized or illegal possession of land owned by the Gram Panchayat under the provisions of the Haryana Public Premises Act, was not maintainable, and that, a petition for ejectment at the hands of the Gram Panchayat was only competent under the provisions of the Punjab Village Common Lands Act.

10. *Having heard the learned counsel for the parties and having examined the substantial difference in the term “public premises” as is applicable to the States of Punjab and Haryana, and having perused the decision rendered by the Full Bench of this Court in Roshan @ Roshan Lal's case (supra), we find merit in the contention of the learned counsel for the petitioner. We are of the view, that a petition for eviction of an unauthorized or illegal occupant of a Gram Panchayat land is not maintainable under the provisions of the Public Premises Act in the State of Haryana, and that, such a petition can only be filed by the Gram Panchayat under the provisions of the Punjab Village Common Lands Act.*

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In view of above, the instant writ petition is allowed. Proceedings initiated by the Gram Panchayat against the petitioner under the provisions of the Public Premises Act, are hereby set aside. Liberty is, however, granted to respondent No.3 i.e. the Gram Panchayat of village Bajida Jattan, to file a fresh petition for the eviction of the petitioner, if it is so advised, under the provisions of the Punjab Village Common Lands Act.”

In view of law laid down in **Banwari's case (supra)**, ejectment petition filed against a person in unauthorized or illegal possession of land owned by the Gram Panchayat under the provisions of the 1972 Act, is not maintainable and that a petition for ejectment at the hands of the Gram Panchayat is only competent under the provisions of the Punjab Village Common Lands (Regulation) Act, 1961.

In view of above, both the petitions are allowed and the impugned orders are set aside. Liberty is, however, granted to the Gram Panchayat of respective villages, to file fresh petitions for the eviction of the petitioners, if so advised, under the provisions of the Punjab Village Common Lands (Regulation) Act, 1961. Admittedly, the Gram Panchayat is owner of the land in question. The same is clear from the jamabandies for the year 1956-57 and onwards, the petitioners in both the writ petitions are in prima facie unauthorized possession and the impugned orders have been set aside only on technical grounds. Thus, the petitioners in both the writ petitions are directed to pay ₹20,000/- per

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acre from the date of filing of the eviction petitions under the 1972 Act in both the petitions till the disposal of eviction petition that may be filed under the provisions of the Punjab Village Common Lands (Regulation) Act, 1961. The Director Panchayats, Haryana shall supervise the proceedings. It is made clear that the amount to be deposited by the petitioners shall be adjusted against the amount which may be fixed by the competent authority.

13.10.2015
parveen kumar

(Paramjeet Singh)
Judge