

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

202

CWP No.9032 of 2013
Date of Decision: 19.01.2015.

Ram Niwas

.....Petitioner

Versus

Commissioner, Hisar Division, Hisar & otherRespondents

CORAM:HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE RAJ MOHAN SINGHPresent: Mr. R.S. Dhull, Advocate
for the petitioner.

Mr. R.K.S. Brar, Addl. A.G., Haryana.

None for respondent No.4.

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 petitioner impugns the orders dated 29.07.2009, 15.03.2011 & 18.01.2012 (Annexures P-13, P-18 & P-20) respectively, whereby he was ordered to be evicted under Section 7 of Punjab Village Common Lands (Regulations) Act, 1961 as applicable to the State of Haryana (hereinafter referred to as 'the Act') from the land measuring 3 Kanal 11 Marla and his appeal and revision petition against the eviction order have been dismissed.

The eviction order(s) have been passed on a petition filed by the Gram Panchayat.

The short controversy that arises for consideration is whether the petitioner or his predecessor-in-interest was in physical possession of the suit property on or before 26.01.1950?

It is not in dispute that the petitioner is an adopted son of Jogi Ram son of Shishu Ram. The petitioner has placed on record jamabandi for the year 1927-28 which clearly depicts that the land was shown as *shamlat* but Shishu was in its possession as a co-sharer. The aforesaid entry has been repeated in the subsequent jamabandies P-8 and P-9 also.

The record further reveals that while opposing the eviction application, the petitioner raised the question of title and requested the Assistant Collector, Ist Grade to convert the petition under Section 13-B of the Act and decide the question of title. The Authorities, however, proceeded with the summary proceedings and passed the eviction order.

In the light of the documents referred above, there appears, prima-facie, that title-dispute in relation to the suit property requires adjudication by the Authority under the 1961 Act in exercise of its powers under Section 13-A of the Act. Suffice to observe that under Section 7 also, when a dispute regarding title is raised it is imperative upon the Authority to convert the proceedings into the title suit and decide that issue in accordance with law.

It is, however, expedient and desirable for this Court not to express any views on merits.

For the reasons aforesaid we allow this writ petition; set aside the impugned orders dated 29.07.2009, 15.03.2011 & 18.01.2012 (Annexures P-13, P-18 & P-20) respectively and remit the case to the Assistant Collector, Ist Grade, Jind, to formulate the question of title and give opportunity to the petitioner to prove his title and discharge that onus. The fate of the action under Section 7 shall depend upon the outcome of these proceedings.

Learned counsel for the Gram Panchayat is not present but in the light of the glaring facts noticed above, more so when no order causing any serious prejudice to the Gram Panchayat is being passed, we do not deem it proper to defer the proceedings to await for the counsel for the Gram Panchayat.

The parties are directed to appear before the Assistant Collector Ist Grade, Jind on 05.02.2015.

Learned counsel for the State shall intimate the Deputy Commissioner, Jind to ensure that the Gram Panchayat is duly represented before the above named Authority on the date fixed.

It shall be appreciated if the Competent Authority decides the title proceedings within a period of six months.

Ordered accordingly.

(SURYA KANT)
JUDGE

19.01.2015
Atik

(RAJ MOHAN SINGH)
JUDGE