

RA-CWP-653 of 2014

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

RA-CWP-653 of 2014 (O&M)  
in CWP No.19741 of 2010  
Date of decision: 19.09.2015

Narinder Kaur and others

....Applicants

Versus

The State of Punjab and others

....Respondents

RA-CWP-655 of 2014 (O&M)  
in CWP No.122 of 2011

Inder Singh

....Applicant

Versus

The State of Punjab and others

....Respondents

**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. Prem Nath Aggarwal, Advocate, for the applicants-petitioners.

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**PARAMJEET SINGH, J. (ORAL)**

This order shall dispose of RA-CWP-653 & RA-CWP-655 of 2014, as both review applications arise from the same judgment.

In view of the following order dated 15.09.2014 passed by

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Division Bench of this Court in LPA No.1535 of 2014 titled 'Smt. Narinder Kaur and others v. The State of Punjab and others' and LPA No.1536 of 2014 titled 'Inder Singh v. The State of Punjab and others', instant review applications under Order 47 Rule 1 of the Code of Civil Procedure read with Article 226 of the Constitution of India have been filed for recalling the judgment passed by this Court on 11.07.2014 in CWP No.19741 of 2010: -

- “1. Learned counsel for the appellants submits that since some of the observations/findings returned by learned Single Judge are in conflict with the documents on the record, the appellant(s) may firstly be permitted to file review application and if need be, the LPA thereafter.*
- 2. Ordered accordingly.”*

Learned counsel for the applicants vehemently contended that findings recorded by this Court that res judicata is applicable is not sustainable and is contrary to the settled principles of law. Learned counsel for the applicants further made reference to the khasra girdawris ranging from 1956 onwards. Learned counsel for the applicants tried to argue the case as if the writ petition is being argued afresh. Learned counsel for the applicants failed to answer the specific question as to how the findings recorded by this Court are in conflict with the documents on record and contended that once the civil Court has recorded a finding that it has no jurisdiction to entertain the suit then the said finding cannot be treated as res judicata or finding against the applicants or their predecessors-in-interest. Even in the grounds of

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review applications it is not mentioned as to how the findings are in conflict with the documentary evidence.

I have dealt with all the contentions raised by learned counsel for the applicants-petitioners in the writ petition exhaustively. So far as the finding with regard to the effect of civil Court judgments is concerned, that has been specifically dealt with at page 6 of the judgment as under: -

*“Firstly, I would consider the effect of civil Court findings in the present case. Admittedly, the petitioners have been ordered to be evicted under the provisions of the PP Act and predecessor-in-interest of the petitioners Harnam Singh filed a civil suit for declaration and permanent injunction challenging the orders of the authorities passed under the provisions of PP Act on the ground that he is a tenant over the land in question and he cannot be evicted under the provisions of PP Act. In the said civil suit the learned Additional District Judge had recorded a finding that the plaintiff in that suit is in unauthorized possession and can be evicted in accordance with law. The said findings have been affirmed by this Court in the Regular Second Appeals preferred by the predecessor-in-interest of the petitioners in both the writ petitions. Since there is a categorical finding of the civil Court that possession of the petitioners over the land in question is unauthorized and not as a tenant, the petitioners cannot get the benefit of the provisions of the Agrarian Laws under the Act.”*

Even the effect of khasra girdawris commencing from *kharif* 1956 has been specifically dealt with in the subsequent para at page 7 of the judgment. Again for the sake of repetition, it would be appropriate

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to specifically mention here that predecessors-in-interest of the applicants-petitioners (Harnam Singh in CWP No.19741 of 2010 and Joginder Singh in CWP No.122 of 2011) filed civil suits for permanent injunction challenging the orders passed by the authorities under the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 on the ground that they were the tenants over the land in question, thus, they could not be evicted under the PP Act. In the judgment passed by civil Court, specific finding has been recorded that predecessors-in-interest of the applicants were in unauthorized possession, therefore, can be evicted under the PP Act in accordance with law. Once the finding has been recorded that predecessors-in-interest of the applicants were in unauthorized possession and were not the tenants, that finding is binding upon the applicants-petitioners since they are stepping into shoes of their predecessors-in-interest. The said finding has become final in regular second appeal, as such now the applicants-petitioners cannot say that those findings will not operate against the applicants-petitioners.

So far as the contention of the learned counsel for the applicants with regard to khasra girdawris commencing from 1956 in favour of predecessors-in-interest of the applicants is concerned, same has been dealt with in the judgment. Even in the grounds of writ petition, it is claimed that they had come into possession in 1956. Once the petitioners have been held to to be in unauthorized possession, they have no right to claim that they are the tenants.

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In review petition findings cannot be re-appreciated. Thus, present review petitions are devoid of merits. Hence, dismissed.

**September 19, 2015**  
R.S.

**(Paramjeet Singh)**  
**Judge**