

*IN THE HIGH COURT FOR THE STATES OF PUNJAB
AND HARYANA AT CHANDIGARH.*

CWP No. 12889 of 1994. [O&M]
Date of Decision: 11th January, 2016.

Gram Panchayat, Dhourang Petitioner through None

Versus

Jagan Nath & Ors. Respondents through None

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE P.B. BAJANTHRI**

- 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 Gram Panchayat of village Dhourang, District Yamuna Nagar is aggrieved by the order dated 14.12.1993 passed by the Collector, Yamuna Nagar whereby the appeal filed by respondent No. 1 against the eviction order dated 04.02.1993 of the Assistant Collector 1st Grade was allowed and eviction petition of the Gram Panchayat filed under Section 7 of the Punjab Village Common Lands [Regulation] Act, 1961, as applicable to the State of Haryana, was dismissed. The order dated 03.05.1994 [P-3] whereby the Commissioner, Ambala Division dismissed the Gram Panchayat's revision petition being not maintainable, is also assailed.

[2]. The petitioner – Gram Panchayat vide resolution dated 30.06.1992 resolved to initiate eviction proceedings against the unauthorised occupants of its land comprised in Khewat No. 324, Khatoni No. 164min[1-11]. Respondents No. 1 and 2 were also amongst those against whom eviction proceedings were initiated. It is evident from the order of the A.C.I.G. Dated 04.02.1993 [P-1] that he held the court proceedings summarily on one day, i.e., 22.01.1993 in village Dhourang and recorded the statements of some prominent persons including Member Panchayat, Ex-Sarpanch and Lamberdar etc. It was then concluded that respondent No. 1 who had constructed a residential house in the year 1988, was in

unauthorized possession of land measuring 1 kanal 11 marlas. The eviction order was accordingly passed.

[3]. The first respondent approached the Collector, Yamuna Nagar who allowed the appeal vide order dated 14.12.1993 after taking notice of the facts that [i] the first respondent had purchased the said land by way of registered sale deed; [ii] the revenue record which could not be produced before the Assistant Collector for want of any opportunity and was brought on record before the Appellate Authority, revealed that the subject land was recorded as *Gair Mumkin* house and Court-yard; [iii] the land is situated outside *abadi-deh* and most of the houses were constructed thereupon prior to 12.02.1981 when Section 2[g][vi] substituted vide Haryana Act No. 2 of 1981.

[4]. We have gone through the impugned orders and are of the considered view that no interference is called for by this Court. We say so for the reasons that though eviction proceedings under Section 7 are summary in nature but that does not mean that the Assistant Collector would not observe even the bare principles of natural justice which includes an adequate opportunity of being heard. The evidence even in quasi-judicial proceedings has to be recorded following the well established practices, namely, [i] opportunity to cross-examine the witnesses and [ii] to produce documentary evidence, if any. No such procedure was followed by the Assistant Collector who visited the spot on 22.01.1993 and then hurriedly passed the eviction order on 04.02.1993. Consequently, the Collector, Yamuna Nagar relied upon the revenue record produced before him in which the subject land is recorded as *Gair Mumkin Makan*. He has categorically held that the houses were constructed before the Haryana Act No. 2 of 1981 came into force. As per Section 2[g][vi] the land which “*lies outside the abadi deh and was being used as gitwar, bara, manure pit, house or for cottage industry, immediately before the commencement of this Act*”, is not included within *shamlat deh*.

[5]. The above stated provision has been introduced

prospectively. If that is so, no eviction petition under section 7 could be maintainable in this case at the instance of the Gram Panchayat. Thirdly, even if there is a doubtful issue re: title or vesting of the subject land in favour or against the Gram Panchayat, it would not entitle the Gram Panchayat to initiate eviction proceedings, though it may be well within its right to seek declaration of its title and prove its ownership by way of petition under Section 13-A of the Act.

[6]. Subject to the outcome of any proceedings initiated by the Gram Panchayat under Section 13-A and/or without effecting the orders passed in such proceedings, if any, we do not find any merit in this writ petition, which is accordingly dismissed.

(SURYA KANT)
JUDGE

January 11, 2016.
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(P.B.BAJANTHRI)
JUDGE