

In the High Court of Punjab and Haryana at Chandigarh

CWP No.15371 of 1994

Date of decision: February 01, 2016

Gordhan

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CWP No.15372 of 1994

Rohtas and others

..... Petitioners

Versus

State of Haryana and another

..... Respondents

CWP No.16295 of 1994

Laxman

..... Petitioner

Versus

Collector, Sonapat and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr.Alok Jain, Advocate and
Mr. Ashwani Gaur, Advocate for the petitioners.
Ms. Kirti Singh, Deputy Advocate General, Haryana.

SURYA KANT, J.

This order shall dispose of CWP Nos.15371, 15372 and 16295 of 1994 as all the cases pertain to the title dispute between proprietors of village Jakholi and the Gram Panchayat of their village. As the issues involved are common in nature, the facts are being extracted from CWP No.15371 of 1994.

The petitioner is a resident of village Jakholi, Tehsil and District Sonapat. He has laid challenge to order dated 17.08.1994 passed by the Commissioner, Rohtak Division, dismissing his revision petition against the order dated 22.02.1994 of the Collector, Sonapat.

The controversy pertains to ownership and possessory rights over the land measuring 33 kanals 2 marlas fully described in the head note of the writ petition. The dispute is between the petitioner and the Gram Panchayat. While the Gram Panchayat initiated eviction proceedings under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short 'the Act') as applicable to the State of Haryana, the petitioner filed a declaratory petition under Section 13A of the Act seeking declaration of his ownership title qua the said land. The Assistant Collector, Ist Grade, Sonapat dismissed the petitioner's petition on 30.10.1990 against which appeal was also dismissed by the Collector, Sonapat on 22.02.1994. Thereafter, he filed a revision petition, which was turned down vide the impugned order.

Unfortunately, the orders passed by the Assistant Collector, First Grade and the Collector, Sonapat are not on record and we are not benefitted with the reasons which found favour with those authorities in rejecting the petitioner's claim. As regard to the revisional order, para 3 of it reads as follow:-

“3. The reading of the impugned order reveals that the appellants are cultivating five bighas in excess than what is due to them under clause 2(g)(5)(viii) and they cannot hold on it in view of 1973 PLJ 557. Moreover, it was the duty of the petitioner to prove that his share does not exceed his due share in the land. Therefore, finding no merit in the revision petition, the same is dismissed.”

It may be seen from the above reproduced operating part of the order, the petitioner appears to have been found in cultivating possession of 05 bighas in excess of the land he is entitled to. It means that the petitioner's claim was partly allowed by the Assistant Collector, First Grade, the Collector as well as the Revisional Authority. Since no reasons are assigned by the revisional authority and there are no details available on record as to how much area was allowed to the petitioner during consolidation or for what would be his proportionate share in the *Shamlat Deh* being a proprietor of the village, it appears expedient that the petitioner's revision petition be decided a fresh by way of a well reasoned order.

Consequently, the writ petition is allowed in part; the order dated 17.08.1994 passed by the Commissioner, Rohtak Division is set aside and the matter is remitted to that authority to re-determine the entitlement of the petitioner and the excess land, if any, found in his

cultivating possession. Let appropriate orders be passed after issuing notice to the petitioners as well as the Gram Panchayat preferably within a period of six months.

(SURYA KANT)
JUDGE

(P.B. BAJANTHRI)
JUDGE

February 01, 2016
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