

**Civil Writ Petition No. 5528 of 1998**

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

**Civil Writ Petition No. 5528 of 1998**

**Date of Decision: 7.12.2016**

Gram Panchayat of Village Gulabgarh, Tehsil and District Bathinda, through  
its Sarpanch Shri Karam Singh

.....Petitioner

Vs.

Commissioner, Faridkot Division, Faridkot and another

.....Respondents

**CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK**

Present : Mr. Deepak Aggarwal, Advocate  
for the petitioner.

Mr. Yatinder Sharma, Additional A.G. Punjab.

None for respondent No.2.

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**RAMESHWAR SINGH MALIK J. (ORAL)**

Present writ petition is directed against the order dated 24.7.1997 (Annexure P-1), whereby appeal of respondent No.2 filed against eviction order dated 7.5.1996 (Annexure P-9) was allowed by the Commissioner, Faridkot Division, Faridkot-respondent No.1, setting aside the eviction order, holding that since petitioner-Gram Panchayat was not the owner of the suit land, it had no authority to seek eviction of respondent No.2.

Notice of motion was issued and respondent No.2 was restrained from alienating the land in dispute. Written statement was filed by respondent No.2. Thereafter, writ petition was admitted for regular hearing, vide order dated 10.8.1999 passed by a Division Bench of this Court. That is how, this Court is seized of the matter.

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Heard learned counsel for the petitioner.

As per own showing of the petitioner vide Annexure P-2, land in question was recorded as Shamlat Deh Hassab Rassad Jar Khewat, which was undoubtedly, the ownership of proprietary body of the village. Petitioner-Gram Panchayat has nothing to do with such kind of land. This was the strong reason that neither there was any resolution passed by the Gram Panchayat for leasing out this land to respondent No.2, nor there was any rent receipt. In fact, in numerous revenue documents produced on record by the petitioner-Gram Panchayat itself, including Annexures P-5 and P-6, respondent No.2 has been recorded in cultivating possession as Gair Marusi. Again, in the column of remarks in both these documents (Annexures P-5 and P-6), possession of respondent No.2 was shown as without any rent in his own right.

The abovesaid material fact would make it crystal clear that land in question had never been the ownership of petitioner-Gram Panchayat. Such kind of land which had been admittedly recorded as Shamlat Deh Hassab Rassad Jar Khewat would never fall within the definition of public premises. Once the land was not falling within the definition of public premises, no eviction application would be maintainable at the instance of Gram Panchayat. However, since the Collector misdirected himself in completely misreading and misunderstanding the scope of the abovesaid material aspect the matter, the eviction order dated 7.5.1996 (Annexure P-9) was rightly set aside by the learned appellate authority, i.e. Commissioner Faridkot Division, by passing the impugned order dated 24.7.1997 (Annexure P-1) and the same deserves to be upheld.

Before passing the impugned order, Commissioner, Faridkot Division,

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recorded cogent findings, which have been found based on sound reasons.

Relevant observations made by the Commissioner, Faridkot Division, which deserve to be noted here, read as under:-

*“The revenue record cited in this appeal and lower court, the fact that the forefathers of appellant were in possession since before 1958. This fact has been concealed by the Gram Panchayat. Gulabgarh while initiating proceedings before the Collector, for the eviction of appellant. It is, untenable that the appellant came into possession just a year ago from the date of filing application dated 12.11.1994. In a similar case filed by this Panchayat-respondent before the Collector (DD&PO) Bhatinda against Harinder Singh s/o Gurdev Singh s/o Bachan Singh of Village Gulabgarh, decided on 16.3.1992 the collector, has dismissed the application holding that respondent has no right to evict the respondent. The available record discussed above implies that the forefathers of appellant were in possession and he inherited the possession from them, so the fact that appellant is in unauthorised possession is untenable. Therefore, I do not find any substance in the impugned order and I accept the present appeal and set aside the impugned order, in the light of observations recorded in the foregoing paragraph of this order. Record of this case be sent to the quarter concerned alongwith copy of this order, after the compliance. This*

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*court file be consigned in the record room.”*

It is also pertinent to note here that in another identical case, wherein the present petitioner-Gram Panchayat filed an ejectment application against Harinder Singh son of Gurdev Singh, the Collector, vide order dated 16.3.1992, dismissed the said application, holding that Gram Panchayat had no right to seek eviction. Categorical case set up by respondent No.2 right from day one was that land in question was the absolute ownership of Sh. Gurbax Singh-grandfather of respondent No.2, who was having share to the extent of 1/4th in the said land measuring 230 bighas and 13 biswas.

Respondent No.2 inherited the ownership and possession of the land in question from his forefather. Neither the petitioner-Gram Panchayat leased out the land to him, nor he paid even a single penny towards lease money to anybody including the petitioner-Gram Panchayat. He had been cultivating the suit land as owner in possession. If there was any change carried out in the revenue record behind the back of respondent No.2, that would not be binding on him. Nobody has ever challenged his possession. It was further pleaded by respondent No.2 that since Sarpanch of petitioner-Gram Panchayat, at relevant point of time in the year 1996, was not having good relations with his family, the ejectment application was moved by Sarpanch just to take revenge from the family of respondent No.2.

Abovesaid facts going to the root of the cause have gone completely uncontroverted before this Court. So far as relevant revenue record was concerned, there was no material available on record which may even remotely support the case of Gram Panchayat. It seems that during the consolidation proceedings, when the proprietors of the village contributed the land to the extent of their share in the proprietary body, with a view to

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create a common pool for utilisation of land therefrom, for common purposes of village namely; playground, hospital, cremation ground etc. After utilisation of land from common pool for common purposes of the village, whatever land remained unutilised, said land would revert to the source from which it came, i.e. the proprietary body of the village. That is how the land in question came to be recorded as Shamlat Deh Hassab Rassad Jar Khewat. Members of the proprietary body of the village would only be entitled to seek partition of this kind of land, i.e. Shamlat Deh, Hassab Rassad, Jar Khewat or Jumla Mustarkan Malkan Hassab Rassad Raqba Khewat, to the extent of their respective shares.

In the present case also, respondent No.2 was cultivating the land in question in his own right, because the land was belonging to the proprietary body of the village, in which respondent No.2 had a share, being member of the proprietary body. It is nobody's pleaded or argued case that respondent No.2 was in possession beyond his share. Even if that would be so, still Gram Panchayat is having no locus standi to seek eviction of respondent No.2. His eviction from the land beyond his share could have been sought only by other members of the proprietary body, who might have not got land as per their share, out of Jumla Mustarkan Malkan Hassab Rassad Raqba Khewat. Having said that, this Court feels no hesitation to conclude that since Commissioner has rightly appreciated abovesaid factual as well as legal aspect of the matter, the impugned order has not been found suffering from any patent illegality or perversity.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order. No prejudice of any kind, whatsoever, has been shown which might have

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been caused to the petitioner, by passing the impugned order warranting interference at the hands of this Court, while exercising its writ jurisdiction under Articles 226/227 of the Constitution of India. In fact, since the petitioner-Gram Panchayat had never been owner of the land in question, learned counsel for the petitioner could not advance any meaningful argument and rightly so, it being a matter of record.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that instant writ petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, present writ petition stands dismissed, however, with no order as to costs.

7.12.2016  
*Ak Sharma*

**(RAMESHWAR SINGH MALIK)**  
**JUDGE**

*Whether speaking/reasoned Yes/No*  
*Whether reportable: Yes/No*