

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

CWP No.14002 of 2012
Date of Decision: -20.07.2016

Smt. Mohinder Kaur

. . . . Petitioner

Versus

State of Punjab and others

. . . . Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Sudhir Thakur, Advocate, for
Mr.Sameer Sachdeva, Advocate,
for the petitioner.

Mr.Suresh Singla, Addl. A.G. Punjab.

Mr.Raman Sharma, Advocate,
for respondent No.4.

Mr.R.S. Dadwal, Advocate,
for respondent No.5.

RAKESH KUMAR JAIN, J.

This petition is filed to challenge the enquiry report of respondent No.2 dated 12.3.2012 alleging that the petitioner is the sole owner of khasra No.1306, which has been illegally encroached upon by respondents No.4 & 5 though the khasra numbers under lease of respondent No.4 are 1308 and 1309 belonging to her estranged son. The stand taken by respondent No.2 is that the petitioner had made a complaint that the petrol pump is illegally run on khasra No.1306. The Patwari, in his report dated 10.7.1995, reported that the petrol pump is in khasra Nos.1308 & 1309 but on the basis of the report of the kanango, the SDM reported on 23.6.2011 that the petrol pump is in khasra No.1306. The ADC (General), Ludhiana relied upon the report dated 23.6.2011 being the report of Senior Officer.

The stand taken by respondent No.4 is that the land in question was taken on

lease for setting up Retail Petroleum Outlet (RPO) at Raikot, District Ludhiana from M/s Mothu Ram Prem Chand by M/s Burma Shell Oil Storage and Distributing Company India Limited vide lease deed dated 20.10.1952 for a period of 7 years which was renewed on 31.10.1957 with little reduction of the area and further renewed on 18.5.1962 and 22.12.1995 between Sh. Lachhman Dass s/o Sant Ram and respondent No.4. Supplementary lease dated 5.3.1997 for additional land was executed for 13 years and 6 months by the same lessor and consolidated lease dated 27.3.1997 was executed for a period of 20 years. Before the execution of lease deed dated 22.12.1995, a certificate was provided by the lessor to respondent No.4 that Lachhman Dass is the owner of Khasra No.1308/1309 over which the petrol pump is in existence. Respondent No.4 got the revenue record examined through J.S. Parmar, Advocate, Ludhiana, who had reported that the land bearing Khasra Nos. 1306, 1308 & 1309, H.B. No.160 of Raikot, District Ludhiana is in the ownership of Sant Ram, Chela Bhagwan Dass and land bearing Khasra No.1306 was shown in jamabandi for the years 1977-78, 1982-83, 1987-88 & 1992-93 in the ownership of Sant Ram, Chela Bhagwan Dass and thereafter in the name of his widow/petitioner from 1997-98 onwards and Khasra Nos.1308 and 1309 were shown in the ownership of Nirmal Singh, Kewal Das and Lachhman Das sons of Sant Ram, Chela Bhagwan Dass in the jamabandi for the year 1977-78, 1982-83, 1987-88, 1992-93, 1997-98 and 2002-03 and finally in the jamabandi for the year 2007-08, it is shown in the ownership of Lachhman Das son of Sant Ram, Chela Bhagwan Dass and it is clear from the revenue record that the petitioner became owner of khasra No.1306 after the demise of Sant Ram, Chela Bhagwan Dass without any testamentary

document and after the death of Sant Ram, Chela Bhagwan Dass, the said property has to devolve upon all the Class-I legal heirs.

The stand taken by respondent No.5 is that a civil suit has already been filed for declaration to the effect that it is an authorized dealer/licensee of respondent No.4 by virtue of dealership of Ref. Jal NRO Raikot dated 23.9.2010 having customer code 169644 and further declaring that petrol pump of the firm has been constructed on the land bearing Khasra Nos.1308 and 1309 and not on Khasra No.1306. The said civil suit is still pending.

I have heard learned counsel for the parties and after perusal of record, am of the considered opinion that no case is made out in the present petition to set aside the enquiry report dated 12.3.2012 as the matter is *sub judice* before the Civil Court in civil suit for declaration as to whether the construction of the retail outlet of the petrol pump is at Khasra Nos.1308 and 1309 or Khasra No.1306 in which both the parties would lead both oral as well as documentary evidence to prove the disputed question of fact which cannot be looked into by this Court in writ jurisdiction, hence, the writ petition is hereby dismissed.

20.07.2016

Vivek

(RAKESH KUMAR JAIN)
JUDGE