

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

Civil Writ Petition No. 18680 of 2016

Date of Decision: 8.9.2016

Tarlok Singh

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. H.P.S. Ghuman, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK J. (ORAL)

Present writ petition is directed against the order dated 29.9.2015 (Annexure P-6), passed by the Deputy Commissioner, Patiala-respondent No.2, whereby appeal of the petitioner was dismissed, upholding the ejectment order dated 12.5.2014 (Annexure P-1).

Heard learned counsel for the petitioner.

Learned counsel for the petitioner submits that neither sufficient evidence was produced by the respondent-Nagar Panchayat, nor issues involved were properly appreciated by the Deputy Director, Local Government-cum-Collector, before passing the impugned eviction order Annexure P-1. He further submits that since the appellate authority also failed to appreciate true facts of the case as well as legal aspects of the matter, the impugned appellate order is also liable to be set aside. In

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support of his contentions, learned counsel for the petitioner places reliance on a Division Bench judgment of this Court in **Ajit Singh @ Jit Singh and others VS. Gram Panchayat Village Dhanda and others, 2014 (1) LAR 548**. He prays for setting aside the impugned orders, by allowing the present writ petition.

Having heard learned counsel for the petitioner at considerable length, after careful perusal of record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that the impugned orders Annexures P-1 and P-6, passed by the respondent authorities, are not suffering from any patent illegality or perversity. Present writ petition is misconceived and without any merit, because of which it is liable to be dismissed, for the following more than one reasons.

It is a matter of record that land in question was reserved for ruri (manure pits). The respondent-Nagar Panchayat moved an application under Sections 4 and 5 of the Punjab Public Premises and Land (Eviction & Rent) Recovery Act, 1973, seeking eviction of the petitioner. It is also a matter of record that ownership of the respondent-Nagar Panchayat had never been in dispute. Learned counsel for the petitioner has referred to resolution No. 51 dated 30.6.1952 (Annexure P-2), to contend, that land under ruri was given to Harijans and labourers, including Dr. Kaka Ram. This resolution contains khasra No. 291/6 measuring 0-1 marla. However, learned counsel for the petitioner claims it to be 1 biswa, though there is no material on record to support the claim putforth by the learned counsel for the petitioner in this regard. Thereafter, abovesaid Dr. Kaka Ram allegedly sold the said piece of land to one Khushi Mohd. for an amount of ₹20,000/-, but there is no sale

deed. Petitioner claims to have purchased the said piece of land from Khushi Mohd. for an amount of Rs. 20,000/- vide agreement for sale (Annexure P-4), but again there is no sale deed.

Firstly, there is no allotment in favour of Dr. Kaka Ram. Resolution (Annexure P-2) cannot confer any kind of title on Dr. Kaka Ram. It is also not pleaded or argued case on behalf of the petitioner that Dr. Kaka Ram was either Harijan or labourer, which was the precondition for the alleged allotment. Secondly, once no title was conferred on Dr. Kaka Ram, he had no right to sell said piece of land in favour of Khushi Mohd., vide Annexure P-3, an agreement for sale. Thirdly, since Dr. Kaka Ram was not having any title qua the piece of land in question, he would not be in a position to pass on any better title in favour of Khushi Mohd. Similarly, Khushi Mohd. would neither be entitled to pass on any title to the petitioner, nor the agreement to sell (Annexure P-4,) would amount to sale.

So far as sufficiency of evidence produced before respondent No.3 by the respondent-Nagar Panchayat is concerned, the impugned eviction order (Annexure P-1), will make it crystal clear that sufficient evidence was available before the authority, for ordering eviction of the petitioner. The impugned eviction order is a self contained order and the findings recorded have been found duly supported by sound reasons. Similarly, impugned appellate order passed by respondent No.2 is also a speaking order.

The relevant operative part of the appellate order, contained in para 5 thereof, which deserves to be noticed here, reads as under:-

“ The written arguments tendered by the parties was considered and oral argument was also heard. The record of the lower court was carefully examined. From the

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examination of the file, it has been found that the appellant party has claimed that the meter of electricity stands in their name and they have been in possession since long, the land was allotted for Ruris and he had purchased the land. On the basis of these facts, the appellant party establishes its claim over the suit property. Only by getting the electricity connection in the name of the appellant, the appellant party does not become owner of the suit property. For being in long possession of Gram Panchayat for a longer time the ownership cannot be acquired. If the land was allotted for ruris and to whom the land was allotted, the solid proof has not been produced. Thereafter, how the appellant and in which capacity is in possession of suit land, for this no solid proof has been found in the file. As per record, the respondent Council is owner of the disputed land and it has kept reserved this land for the welfare of the people of the Village and nobody can establish his right over the same. Apart from it the appellant party is claiming that they had purchased the disputed property from Khusi Mohammad through agreement to sell. As per law the suit land cannot be transferred through agreement to sell. After examining the facts on record it has been found that whatever order has been issued by the Collector-cum-Deputy Director, local Government Patiala, which has been found correct on the basis of the facts and there is no necessity of interference with the same. Therefore, the appeal is dismissed. Order was pronounced. File after implementation be deposited in the record room.”

Another submission made by learned counsel for the petitioner is that, since the land in possession of the petitioner was reserved for ruris, respondent-Nagar Panchayat would have no jurisdiction to move any application seeking eviction of the petitioner. After considering the abovesaid contention raised by learned counsel for the petitioner, it has been

found wholly misplaced, for the reason that there is no relevant record available on the file of this Court, showing that the piece of land in question was reserved for ruri, during the consolidation proceedings.

Petitioner has not placed on record any such relevant record before this Court, for the reasons best known to him. In this regard, he places reliance on Annexure P-5, i.e. jamabandi for the year 2004-05, and refers to column No. 8 thereof, to contend that this was gair marusi ruri, which does not make any sense. Even if it is treated as gair mumkin ruri, petitioner has no case. It is so said because khasra number recorded in jamabandi (Annexure P-5) does not tally with resolution Annexure P-2, whereby the land out of khasra No. 291/6 was allegedly given to Dr. Kaka Ram. Further, by referring to this jamabandi and resolution, learned counsel for the petitioner has contradicted himself even on facts, which completely falsifies the stand taken by the petitioner.

Coming to the judgment of this Court in **Ajit Singh's case** (supra), relied upon by learned counsel for the petitioner, there cannot be any doubt about the law laid down therein. However, after close perusal of the cited judgment, the same has not been found of any help to the petitioner, being distinguishable on facts. The fact situation in the cited judgment was entirely different. It is the settled principle of law that peculiar facts of each case are to be examined, considered and appreciated first, before applying any codified or judgemade law thereto. Sometimes, difference of even one circumstance or additional fact can make the world of difference, as held by the Hon'ble Supreme Court in **Padmausundara Rao and another Vs. State of Tamil Nadu and others, 2002 (3) SCC 533**.

During the course of hearing, learned counsel for the petitioner could not substantiate any of his arguments. Further, he could not point out any prejudice which might have been caused to the petitioner, by passing the impugned orders. In fact, the impugned orders have not been found suffering from any patent illegality or perversity, warranting interference at the hands of this Court, exercising its writ jurisdiction under Articles 226/227 of the Constitution of India, thus, the impugned orders deserve to be upheld, for this reason also.

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.

(RAMESHWAR SINGH MALIK)
JUDGE

8.9.2016

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Whether speaking/reasoned Yes/No

Whether reportable: Yes/No