

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

Civil Writ Petition No.24586 of 2014

Date of Decision : 16.02.2016

Jagdish Singh and anotherPetitioners

Versus

Director, Rural Development and Panchayat, Punjab and others
.. Respondents

CORAM : HON'BLE MR.JUSTICE SURYAKANT
HON'BLE MR.JUSTICE P.B. BAJANTHRI

Present : Mr.R.K.Dadwal, Advocate, for the petitioners.
Mr.Rajesh Bhardwaj, Additional AG, Punjab.
Mr.C.L.Premy, Advocate, for respondent No.3.

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Surya Kant, J. (Oral)

The instant writ petition is directed against the orders dated 20.07.2012 and 18.09.2014 passed by the Collector, Hoshiarpur and the Appellate Authority, respectively, under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short, 'the Act').

Vide the first order, the petitioners were ordered to be evicted from the land measuring 4 marla stated to be panchayat land and a part of the village Chowk, the second order is of dismissal of the petitioners' appeal.

In the summary eviction proceedings, the authorities have held that the subject site, namely, the village chowk was being used for common purposes and the petitioners have allegedly encroached upon a part thereof while constructing the house.

On the other hand, the petitioners' case is that there is no evidence to hold that their house has been constructed on the land which forms part of village chowk. Their primary case is that

the subject land has been purchased by them by way of a registered sale deed dated 10.06.1994, hence cannot be held to be unauthorized occupants.

The Gram Panchayat has filed its written statement contesting the petitioners' claim, *inter-alia*, on the ground that the land purchased by them vide registered sale deed is different then the Gram Panchayat land under their occupation. A specific plea has been taken in para No.5 of the written statement that pursuant to the impugned eviction orders, possession of the land in dispute has already been taken on 29.11.2014, i.e., much before this Court directed the parties to maintain *status-quo* re: possession on 02.12.2014 and also before the Appellate Authority decided the appeal.

In these circumstances when possession has already been taken from the petitioners, we dispose of this writ petition with liberty to the petitioners to file a declaratory petition under Section 11 of the Act so as to establish his title qua the suit land.

Needless to say that the findings or observations given by the Collector or the Appellate Authority in the summary eviction proceedings shall have no bearing on the issues to be determined by the Collector in the declaratory petition.

Ordered accordingly.

Dasti.

[Surya Kant]
Judge

[P.B. Bajanthri]
Judge

16.02.2016
mohinder