

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.435 of 2016 (O&M)

Date of Decision: 12.01.2016

Mohinder Singh

... Petitioner

VS.

Director, Rural Development and
Panchayat, Punjab & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE P.B. BAJANTHRI

1. Whether Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporters or not?

3. Whether the judgment should be reported in the Digest?

Present: Mr.Deepak Arora, Advocate for petitioner

SURYA KANT, J. (Oral)

(1) The eviction order under Section 7 of the Punjab Village Common Land (Regulations) Act, 1961 was passed against the petitioner on 21.10.2008 (P8) at the instance of the residents of the village. A categorical finding was recorded that the petitioner along with five other persons have encroached upon 5 kanal land of shamlat deh out of khasra No.76, 77, 78 & 79 in khatauni No.549 and khewat No.331. The petitioner tried his luck before the appellate authority but his appeal was dismissed on 25.02.2011 (P4). Thereafter he went into slumber. The instant writ petition has been filed after a delay of five years.

(2) In our considered view, the writ petition suffers from unexplained delay and laches and is liable to be dismissed on this score alone. Otherwise also, we have gone into the merits of the case.

The authorities have concurrently held that the subject land is owned

by Gram Panchayat and is reserved for 'Garha Khad' which is a common purpose. The petitioner failed to establish his possession over the land prior to 26.01.1950 and thus has rightly been held to be an unauthorized occupant.

(3) Faced with this, learned counsel for the petitioner states that the petitioner is ready and willing to pay the market price of the land as he has constructed house over the subject-land.

(4) Since no such plea was raised before the authorities, we decline to interfere except to observe that the petitioner may approach the Gram Panchayat in this regard. If the Gram Panchayat is ready and willing, it may consider the petitioner's claim strictly in accordance with the provisions of the Punjab Village Common Land (Regulations) Rules, 1964 within one month. The house, if any, constructed by the petitioner may not be demolished for a period of one month provided that the petitioner approaches the Gram Panchayat within one week.

(5) With liberty afore-mentioned, the writ petition stands dismissed.

(Surya Kant)
Judge

12.01.2016
vishal shonkar

(P.B. Bajanthri)
Judge