

294

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

CR No.6739 of 2016

Date of Decision : 23.08.2017

MITHU SINGH

...PETITIONER

VERSUS

**DISTRICT DEVELOPMENT AND PANCHAYAT OFFICER AND
OTHERS**

....RESPONDENTS

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Manish Kumar Singla,
Advocate for the petitioner.

Ms. Anju Sharma Kaushik, AAG, Punjab.

Mr. Rakesh Gupta, Advocate
for respondent No.2.

RAMESHWAR SINGH MALIK, JUDGE (ORAL)

Feeling aggrieved against the order dated 19.05.2015 passed by the Collector, Sangrur, whereby he dismissed the application of the petitioner for restoration of the possession, in compliance of the order dated 22.05.2012 passed by the Division Bench of this Court, petitioner has approached this Court by way of instant civil revision petition under Article 227 of the Constitution of India, for setting aside the impugned order.

Notice of motion was issued.

Heard learned counsel for the parties.

A bare perusal of the order dated 22.05.2012, passed by the

Division Bench of this Court would show that CWP No.7438 of 2010

(Mithu Singh and another versus Director Rural Development & Panchayat Department, Punjab and others) was allowed by this Court. Respondent-panchayat challenged the said order passed by the Division Bench of this Court before the Hon'ble Supreme Court and the SLP was dismissed by the Hon'ble Supreme Court vide order dated 28.04.2014 (Annexure P-7). In this view of the matter, petitioner was certainly entitled for restoration of the possession.

It has also gone undisputed before this Court that the land in question, was recorded as '*Jumla Mushtarka Malkan*' in the relevant revenue record. As per the scheme of the Punjab Village Common Lands (Regulation) Act 1961, (Act of 1961 for short) no application for ejectment under Section 7 of the Act of 1961 would be maintainable at the hands of Gram Panchayat because such land would not vest in the Gram Panchayat. In this regard, reliance can be placed on the law laid down by Full Bench judgment of this Court in '*Jai Singh versus State of Haryana*', 2003, (2) RCR (Civil) 578, which has been further upheld and clarified by a larger Bench of this Court in '*Suraj Bhan and others versus State of Haryana and others*,' 2017(2) RCR (C) 934. Having said that, this Court feels no hesitation to conclude that the learned Collector committed serious error of law, while passing the impugned order and the same cannot be sustained.

During the course of hearing, learned counsel for the respondent-Gram Panchayat could not raise any meaningful argument in support of the impugned order and the same deserves to be set aside. In fact, the learned Collector failed to appreciate the true import of above said order passed by a Division Bench of this Court because of which, the impugned order has caused a serious prejudice to the petitioner. In this

view of the matter, the impugned order cannot be sustained 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 since the impugned order has been found patently illegal, it cannot be sustained. Accordingly, the impugned order dated 19.05.2015 passed by learned Collector is hereby set aside. Application of the petitioner for restoration of possession would stand allowed.

Consequently, respondent-Gram Panchayat is directed to put the petitioner in actual and physical possession of the land in question. District Development and Panchayat Officer, Sangrur-respondent No.1 is directed to ensure that physical possession of the land in question is handed over by the respondent-Gram Panchayat to the petitioner at an early date but in any case within a period of one month from the date of receipt of the certified copy of this order.

Resultantly, with the above-said observations made and directions issued, the instant revision petition stands allowed, however, with no order as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

August 23, 2017

rajneesh

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