

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

CWP No.1882 of 2011
Date of decision : 23.05.2017

Kashmir Singh and others

...Petitioners

Versus

Municipal Council Samana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. Vikas Singh, Advocate for the petitioners.

Mr. Kunal Mulwani, Advocate and
Mr. Vishal Garg, Advocate for the respondent No.1.

Mr. Yatinder Sharma, Addl. A.G. Punjab.

AMIT RAWAL, J. (Oral)

The petitioners who are 14 in numbers have sought the indulgence of this Court for issuance of writ in the nature of mandamus for allegedly quashing the action of the respondents whereby the possession of the land in occupation of the petitioners had allegedly and forcibly been taken on 22.12.2010 and with a further relief of quashing of report No.881 dated 28.12.2010 as recorded in daily diary of Patwari (Annexure P-3) on the premise that all residents of Old Sarain Patti, Samana. had been in occupation of the land which is reflected from the khasra girdawri for the year 2007 to 2010 (Annexure P-1). In fact, possession had been more than

20 years old. The Municipal Committee never asserted its title. It is Shamlat patti land and owing to the increase of the municipal limits, the Municipal Council could not have entered the mutation in their favour and forcibly dispossess. At the best, they can initiate the proceedings under the Punjab Public Premises Act as no person can be dispossessed from the settled long possession.

Mr. Vikas Singh, learned counsel appearing on behalf of petitioners has drawn the attention of this Court to para No.5 of the written statement to contend that some steps of ejectment had been taken but no proceedings of the same has seen the light of the day and thus, urges this Court for restoration of the possession, much less grant of compensation.

Mr. Vishal Garg and Mr. Kunal Mulwani, learned counsels appearing on behalf of respondent No.1 submits that vide Notification dated 04.03.1976, the Municipal Committee had become the owner. The petitioners had no locus standi even to challenge the ownership of the Municipal Committee. The possession was never taken forcibly but delivered by the petitioners. All facts are disputed questions of facts and law and thus urges this Court for dismissal of the writ petition.

I have heard learned counsel for the parties and appraised the paper book.

Concededly, the petitioners, according to the averments made in the writ petition, alleged to have been dispossessed on 22.12.2010. There is no interim order of restoration of the possession. They have an independent remedy of seeking compensation and damages for use and occupation for such period for which they have been forcibly dispossessed

which has been denied by the respondents.

In view of the specific denial, this Court with a glance at the photographs of the alleged dispossession of an agricultural land cannot decide this controversy owing to the disputed questions of facts and law which would be falling within the realm of Civil Court. The petitioners could have availed the remedy by proving on record the aforementioned fact. Even they have no right to challenge the mutation and, therefore, this Court cannot order for restoration.

Para No.5 of the written statement reads as under:-

“5. That the para No.5 of the petition is wrong and hence denied. Mere pending of the matter does not confirm the title of the petitioners. It is wrong that Municipal Council without issuing any notice to any of the petitioners or without resorting to any ejectment proceedings under the PP Act or any other law forcibly dispossessed the petitioners on 22.12.2010. The petitioners are very clever persons they intentionally and willfully refused to take the summons regarding the ejectment petition which was filed by the Municipal Council, Samana when mutation has been entered in the name of the Municipal Council, Samana then the revenue officers duty bounds to correct the revenue record and as per law the Khasra Girdawaries were entered in the name of Municipal Council, Samana in revenue record. The revenue officials had delivered the possession to Municipal Council, Samana on the basis of mutation proceedings.”

In view of the stand taken therein, I am of the view that in case petitioners choose to file suit within a period of two months, period spent herein in the present writ petition shall be deemed to be condoned.

No ground for interference is thus made out.

Accordingly, present writ petition is disposed of with
aforementioned observations.

23.05.2017

Pawan

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No