

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

1. CWP No.12150 of 2017
Date of decision : 01.06.2017

Hardeep Singh and another

...Petitioners

Versus

DDPO-cum-Collector, Amritsar and another

...Respondents

2. CWP No.12151 of 2017
Date of decision : 01.06.2017

Gurkirat Singh

...Petitioner

Versus

DDPO-cum-Collector, Amritsar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. Amarjit Markan, Advocate with
Mr. Kanwal Goyal, Advocate for the petitioner(s).

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

Mr. J.S. Thind, Advocate for respondent No.2.
(In both writ petitions)

AMIT RAWAL, J. (Oral)

CM No.8287-CWP of 2017

For the reasons stated in the application, which is duly
supported by an affidavit, application is allowed.

Order dated 23.05.2017, Warrants of possession dated 23.05.2017 and order dated 22.05.2013 as Annexures P-7 to P-9, are taken on record, subject to all just exceptions.

Main cases

This order of mine shall dispose of aforementioned two writ petitions.

Reply to both writ petitions on behalf of State has been filed today in the Court. Same is taken on record. Copy thereof has been supplied to the counsel opposite.

This Court while issuing notice of motion on 26.05.2017 had in extenso noticed the facts and contention of Mr. Amarjit Markan, Advocate assisted by Mr. Kanwal Goyal, Advocate and in view of the aforementioned order, had called DDPO-cum-Collector, Amritsar and Sarpanch, Gram Panchayat to be present in the Court.

Mr. Gurpreet Singh Gill, DDPO-cum-Collector, Amritsar and Mr. Surender Singh, Sarpanch, Gram Panchayat, Village Chaminda Kalan are present in the Court and have tendered unqualified apology for disregarding the two orders of this Court. One is dated 22.05.2013 (Annexure P-9) rendered in CWP No.11116 of 2013 and order dated 20.01.2011 (Annexure P-4) in RSA No.3060 of 1997 whereby petitioners have accorded the status of co-sharer in the land measuring 140 kanals 7 marlas in both the cases. The order dated 22.05.2013 reads as under:-

“The petitioner prays for issuance of a writ of mandamus to direct respondent No.4 to initiate action against respondents No.7 to 9, who are in illegal possession of Panchayat land.

Counsel for the petitioner submits that respondents No.7 to 9 were ordered to be evicted vide order dated 06.06.1996 passed by the Collector, in the exercise of powers under the Punjab Public Premises Act, 1973. The appeal filed by respondents No.7 to 9 was also dismissed, but under the garb of an order passed in RSA Nos.3058 of 1997 and 3060 of 1992, declaring the petitioners as co-sharers along with the Panchayat, they are still in possession of the entire land.

We have heard counsel for the petitioner, considered the submissions as well as pleadings and as admittedly, respondents No.7 to 9 have been declared co-sharers, find no reason to issue the writ, as prayed. The remedy of the Gram Panchayat is to either challenge the judgment declaring the private respondents as co-sharers or to seek partition in accordance with law as the land is prima-facie “Jumla Mushtarka Malkan”.

Dismissed.”

The reasons of summoning the DDPO and Sarpanch in the Court had been that despite petitioners have accorded the status of co-ownership and Gram Panchayat having failed to succeed the possession, petition was preferred by the Gram Panchayat for issuing the direction to the State authorities to take action and as per order *ibid* is either to challenge the order rendered in RSA or seek partition and without availing the aforementioned remedy, through the present Sarpanch filed execution application of the order dated 06.06.1996 passed in the proceedings initiated under Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 and vide impugned order (Annexure P-7), objections filed by the petitioner have been dismissed. The operative part of the order dismissing

the objection reads thus:-

“After hearing ld. Counsels for the parties and perusing the record, it becomes clear that the disputed land in question belongs to Jumla Mustarka Malkan and respondents have been ordered to be evicted as per order dated 06.06.1996. Respondents have also exercised their right to appeal and therefore, this order has attained finality. By rejecting the objections filed by the respondents, warrants of possession are issued.”

On going through the reasoning, there is no reference to the order of the High Court according the status of the co-sharer. It is a clear cut case of willful disregard and disrespect to the orders. When this Court was about to initiate some action, Mr. Gurpreet Singh Gill, DDPO-cum-Collector, Amritsar and Mr. Surender Singh, Sarpanch, Gram Panchayat, Village Chaminda Kalan have tendered unqualified apology. Gram Panchayat had already been relegated to avail the remedy as indicated in the order dated 22.05.2013. Without initiating the aforementioned process, no co-sharer can be evicted in the manner and mode as indicated above. Since petitioners have been constrained to approach this Court owing to the issuance of warrants of possession and rejection of the objection, I deem it appropriate to impose cost of ₹1,00,000/- each on the Sarpanch, Gram Panchayat and DDPO-cum-Collector, Amritsar to be paid from their own pocket within a period of one month from today.

In case of failure of making payment of costs, liberty is granted to move an application for seeking execution of the order.

Resultantly, impugned order dated 23.05.2017 is set aside.

It is further declared that order dated 06.06.1996 in view of

decision rendered by this Court in RSA No.3060 of 1997 becomes inoperative.

With the aforementioned observations, both the writ petitions stand allowed.

01.06.2017

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No