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

CWP-12334-2017

Date of decision : 01.06.2017

Pritam Kaur and another

... Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sandeep Jain, Advocate
for the petitioners.

Mr. Kuljit Singh Bal, Advocate
for the respondent(s)/Caveator(s).

AMIT RAWAL, J. (ORAL)

The petitioners have aggrieved of the impugned order dated 12.10.2015 (Annexure P-4) passed by the respondent No.3/Collector, whereby the petitioners have been evicted under Sections 3, 4 and 5 of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973.

Mr. Sandeep Jain, learned counsel appearing on behalf of the petitioners submits that as per Annexure P-2 i.e. proceedings initiated before the Tehsildar-cum-Consolidation Officer, Amritsar-II, decided on 27.06.1997 titled as **"Balwant Singh V/s Gram Panchayat"**, wherein it was held that the land measuring 91 kanals 9 marals is *Jumla Mustarka Malkan Rakba* and their share is enumerated in *Chakbandi*, resultantly, amended partition proceedings were approved. The Gram Panchayat did not have any *locus standi* to initiate the proceedings, much less, the jurisdiction of the District Development and Panchayat Officer, by exercising the powers

of the Collector. In fact the petitioners are the proprietors of the Village/land and the proprietary body cannot be evicted by the Gram Panchayat. All these points were specifically raised in the written statement, but there is no adjudication. Even the issues were required to be framed. In support of his contentions, he relies upon the *ratio decidendi* culled out by this Court in **“Sarjiwan Tiwari V/s Punjab State Electricity Board” 1998 (2) RCR (Civil) 2**, thus, urges this Court for setting aside the impugned order under challenge by remanding the matter to the Courts below.

Mr. Kuljit Singh Bal, learned counsel appearing on behalf of the respondent(s) submits that there is a compliance of the provisions of Section 4 of the 1973 Act. On filing of the eviction, the petitioners were served with the show cause notice and had filed the reply. The issues should have only framed, had the some documents, much less, list of proprietors qua ownership been placed on record. Having failed to do so, the Courts below did not find any basis for framing them. In support of his contentions he relies upon the *ratio decidendi* culled out by the Division Bench of this Court in **“Gram Panchayat Surewala V/s Commissioner, Ferozepur”, 1998 (1) RCR (Civil) 707**, thus, urges this Court for dismissal of the present writ petition.

I have heard the learned counsel for the parties and appraised the paper book and of the view that it was incumbent upon the petitioners to place on record the list of proprietors, showing their names. The order (Annexure P-2) is between some third party and the benefit of which cannot been taken by the petitioners in the absence of any documentary evidence placed on record, either before the authority or upto this Court. All the

suspicious circumstances would lead to a irresistible conclusion that the petitioners are in unauthorized occupants of the property. The Gram Panchayat is managing the property of the proprietors for the common purposes and thus, it would be competent to seek eviction, in case of any encroachment. It is basically the proprietors, who have agreed to utilize the land for common purposes. Framing of issues, in my view, would pale into insignificance in the absence of any material placed on record.

Keeping in view the aforementioned facts, no ground is made out for interference in the impugned order dated 12.10.2015 (Annexure P-4), much less, do not call for interference and cannot be said to be vitiated in law.

Resultantly, the present writ petition stands dismissed.

01.06.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No