

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

CWP No.6499 of 2012 (O&M)
Date of decision : 07.03.2017

Assa Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. N.P.S. Mann, Advocate for the petitioner.

Ms. Puja Chopra, Advocate for the applicant.

Mr. Anil Rathee, Advocate

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

AMIT RAWAL, J. (Oral)

The petitioner has approached this Court seeking intervention under Article 226/227 of the Constitution of India for the issuance of a writ in the nature of certiorari for quashing the order dated 27.02.2012 (Annexure P-11) of Deputy Commissioner, Ferozepur-respondent No.2 vide which direction has been issued to Tehsildar, Ferozepur-respondent No.4 to take the possession of the land stated to be in illegal possession in a complete and illegal manner and also writ in the nature of mandamus directing the respondents to act in legal and fair manner and should not forcibly and illegally evict the petitioner, except in due course of law.

Mr. N.P.S. Mann, learned counsel appearing on behalf of

petitioner submits that father of the petitioner namely Iqbal Singh son of Jaimal Singh purchased the land measuring 149 kanals 9 marlas, description of which is given in para No.2 of the writ petition, in open auction held in the year 1966 and in lieu thereof deposited a sum of ₹4675/- vide receipt No.12 dated 01.05.1966 and ₹16025/- vide receipt No.20 dated 10.08.1966 (Annexure P-1 and P-2) respectively. Certificate of sale as per Rule 90(15) of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 as, it then was invogue, now repealed, was issued on 10.08.1966 (Annexure P-3). The land situated in above said khasra numbers was transferred in the name of the father of the petitioner and mutation bearing No.5198 dated 16.09.1967 was sanctioned. However, there are two records maintained. One is *Parat Sarkar* and another is *parat patwar*. As far as *parat sarkar* is concerned, it was reflected in the name of the petitioner but there was no correct entry in register of patwari. Resultantly, application was moved to record *farad badar* in terms of the provision of Clause 7.29 of the Land Record Manual. However, the petitioner was flabbergasted to know that respondent Nos.2 and 3 attempted to evict him from the land on the premise that land belong to the Government and resultantly went to the office of respondent No.3 and came to know that land was not in the ownership of his father. Accordingly, moved an application to SDM Ferozepur-respondent No.3 for issuance of farad badar. SDM Ferozepur called report from Tehsildar-respondent No.4 and as well as from Halqa Patwari who vide his report dated 22.06.2005 submitted that land measuring 149 kanals 10 marlas was purchased by Iqbal Singh vide rapat No.370 dated 20.08.1967 and entry in this regard was made in the roznamcha. Resultantly, suggestion was made

to correct the parat patwar vide order dated 01.08.2005 (Annexure P-7). When nothing was done, petitioner on 17.02.2011 (Annexure P-8) again made a request for implementing the order of SDM dated 01.08.2005, but despite that SDM Ferozepur did not do anything. Petitioner approached this Court vide CWP No.2591 of 2012 and sought direction to the respondents to comply with the order dated 01.08.2005. Said writ petition was disposed of, vide order dated 13.02.2012 (Annexure P-10) with a direction to dispose of the application dated 17.02.2011 within a period of three months. Deputy Commissioner vide order dated 27.02.2012 (Annexure P-11) at the back of the petitioners directed the respondent No.4 to take the possession of the present land. After that, the official started taking proceedings regarding possession from the petitioner and raised hue and cry and openly proclaimed that they shall take the possession and thus, the petitioner is illegally being harassed by respondent No.2 to 4 owing to the fact that petitioner belong to the party not in power.

Mr. Yatinder Sharma, Addl. A.G. Punjab submits that enquiry has been conducted in pursuance to the directions given in order passed in CWP No.2591 of 2012. SDM, vide its report (Annexure R-1) found that the claim of the petitioner was not established as he was found to be in unauthorized occupation. Cases of eviction of unauthorized occupation already reached upto Hon'ble High Court for last 25 years. Name of the petitioner or his father did not figure in any khasra girdawri nor the documentary evidence which were required to be sanctioned in favour of the petitioner. Value of the property is more than 50 to 60 crores and submitted that documents were forged and fabricated in collusion with some

officials of the Department in order to grab the Government property and the application (Annexure P-8) was thus rejected.

Ms. Puja Chopra, learned counsel appearing on behalf of applicant in application bearing No.13301-CWP of 2012 seeking impleadment of person namely Anuj Ashwani as respondent No.5 in writ petition submits that his client's presence is necessary as his father namely Vinod Kumar had been allotted the land measuring 3 kanals 14 marlas of land, therefore, his client's presence would be essential and necessary.

For the reasons aforementioned, application is allowed. Anuj Ashwani is impleaded as party i.e. respondent No.5 in the present writ petition.

She further submits that stand taken in application be taken as written statement. She submits that land was owned and possessed by Central Government since independence. From March, 1960 to December 1960, revenue record shows that Harpreet Singh was shown to have been given the possession of land in dispute on lease and one stray entry shows "*Tasawar Bai*". There was no record of ownership of Harpreet Singh. Litigation between Harpreet Singh and after him his LR's namely Kiranjit Kaur and Punjab State and others reached upto this Court in RSA No.862 of 1985, 430 of 1994 and CWP No.7688 of 1997 and 8796 of 1996 (Annexure R-1). All the four cases were decided vide common order dated 29.10.2010 (Annexure R-1), wherein it was held that they were not found to be owner in possession of the aforementioned property. Even possession from Harpreet Singh was taken by the State of Punjab way back on 11.01.1996 pursuant to the order of the Collector, Ferozepur dated 09.01.1996. Entry in

the rapat roznamcha regarding possession has also been made. Father of the applicant was allotted land measuring 3 kanals 14 marlas vide order dated 16.08.1996 (Annexure R-2). Appeal preferred before the Tehsildar Sales Ferozepur was dismissed and the mutation was also effected in favour of Vinod Kumar. The applicant had submitted the complaint to the office of Election Commission, Punjab, wherein Tehsildar submitted his report dated 04.02.2012 that there was some illegal construction raised by Resham Singh. SDM Ferozepur vide order dated 12.04.2012 enquired into the matter deeply and held that the revenue record has been tampered with and forged and fabricated documents have been prepared by the petitioner in the name of his father Iqbal Singh in connivance with the revenue officer and enquiry was impartial and uninfluenced yet SDM was transferred from Ferozepur and another SDM was posted w.e.f. 14.05.2012. Calculative effort was being made for sabotaging free and fair inquiry/investigation. The entire land in dispute being claimed by the petitioner is basically on the basis of forged and fabricated documents. Information under RTI Act regarding mutation No.29714 had been sought.

In rebuttal, Mr. Mann, Advocate submits that in view of the order dated 12.04.2012, FIR was registered and same was enquired into and SP conducted the enquiry and exonerated the petitioner from all the charges. Even second enquiry was also conducted by SP Detective which also found of no involvement of forgery and fabrication and matter is still pending. In fact, the petitioner has already filed Criminal Miscellaneous No.18819-M of 2015 before this Court which is pending for 10.05.2017..

Ms. Puja, Advocate during the course of hearing, has rebutted

the aforementioned arguments by referring to the status report filed by the Deputy Superintendent of Police, Investigation Ferozepur dated 16.03.2016 in the aforementioned criminal proceedings, wherein it has been held that documents prepared by SSP in the aforementioned, mutation No.5198, Hadbast No.104, City Ferozepur, receipt dated 01.05.1966 and application No.972/73/1997 has been got written in the name of Iqbal Singh in the office of SDM, Ferozepur in connection with getting prepared the aforementioned farad badar and in case, Assa Singh's father Iqbal Singh has given application with regard to the farad badar in the year 1997 to SDM, Ferozepur then original application should have been there in the office of SDM or in Tehsil but the application was with Assa Singh. Even SDM Ferozepur Office's dispatch register related to aforementioned application had been taken into possession and it has been found that no such application had been received in the office of Tehsil, Ferozepur. Writing of Daak Register No.972 to 973's page is also in different from that of the writing on the remaining register, thus, there was apparent finding of forgery. The matter was also enquired from the Forensic Science Laboratory, Chandigarh and signatures of Madan Mohan, Naib Tehsildar had been found to be forged.

I have heard learned counsel for the parties and appraised the paper book and of the view that once there is prima facie findings given by the police with regard to the forgery and the signature of Madan Mohan, Naib Tehsildar to be forged one, the petitioner has no stake and claim to seek ownership in the present writ petition, much less, receipt of interference and, therefore cannot seek the stamp of this Court for declaring

him to be the owner. If at all the petitioner is aggrieved, he can always seek declaration on the basis of the documents by proving in accordance with law but not in the present writ petition. As regards interference, once possession had already been taken, even grievance of the forcible possession cannot be addressed to. I refrain myself from delving further on the rival contentions as it may affect the right of the petitioner, in case it chooses to file the suit but prima facie for the time being, it appears to be an apparent forgery and fabrication. However, in case petitioner choses to avail the remedy, the reference of the aforementioned documents would be only treating as passing and not on merits subject to the mode and proof.

No ground for interference is made out.

Resultantly, writ petition stands dismissed.

Petitioner has prima facie also not been able to prove his possession on the property whereas on the contrary, possession had been taken way back in the year 1996. There had been a chequered history of this property whereas certain persons like Harpreet Singh had availed remedy of Regular Second Appeal by not succeeding in the Civil Court and writ petition regarding the eviction proceedings but the same resulted into dismissal.

07.03.2017

pawan

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No