

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

C.W.P.No.26856 of 2016 (O&M)
Date of Decision: January 10, 2017

Sohan Singh & another

...Petitioners

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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

AMIT RAWAL, J.

CM Nos.16709 and 16710 of 2016

Documents Annexures P-11 and P-12 are taken on record.

Exemption is also granted from filing the certified copies of
the annexures.

Applications stand disposed of.

CWP No.26856 of 2016

Petitioners are aggrieved of the impugned order dated 31.5.2011 passed by the Collector, Kapurthala (Annexure P-7) allowing the eviction petition filed by respondent No.4 under Sections 4 and 5 of the Punjab Religious Premises and Land (Eviction and Rent Recovery) Act, 1997 (for short "1997 Act") and upheld by the Commissioner, Jalandhar Division, Jalandhar vide order dated 17.2.2016 (Annexure P-9).

Mr.Onkar Singh, learned counsel for the petitioners has

submitted that both the authorities have not taken into consideration the compromise deed dated 8.5.2006. The petitioners have purchased the land measuring 6 kanals 15 marlas from Sadhu Singh and Jarnail Singh vide sale deeds dated 30.4.2001, fully detailed in para 3 of the petition, duly entered in the jamabandi for the year 1998-99, H.B.No.73, situated at Phagwara Sirki, Tehsil Phagwara. They have constructed the shops on the aforementioned land and given the same on rent. The aforementioned land was situated abutting the main metalled road known as "Sukhchain Nagar Road" comprised in Khasra No.3492, which is evident from the jamabandi Annexure P-2. The Managing Committee of the Gurudwara Shri Sukhainana Sahib-respondent No.4 is in possession of land in Khasra Nos.1691 to 1702, Khewat No.2171 and 2172 at some distance from the land in dispute, which is evident from the jamabandi for the year 2003-04 (Annexure P-3). A complaint was made to the Station House Officer, Police Station, Sadar Phagwara against the petitioners with regard to the land in dispute and due to the intervention of the respectable persons, a compromise was effected. In fact, the Managing Committee of the Gurudwara is interesting in usurping the land under the possession of the petitioners and had allegedly got the demarcation done on 25.10.2006, copy of which is Annexure P4/A and on the basis of the same, filed the report. The demarcation is not in accordance with the High Court Rules and Regulations, much less in the absence of the petitioners. The petitioners appeared in the aforementioned petition filed under Sections 4 and 5 of 1997 Act and raised all the objections with regard to the maintainability. Both the authorities have not appreciated the compromise as the dispute regarding the land had already been settled. The authorities have further

relied upon the second demarcation report dated 16.4.2011, which is not as per the law. Neither any pucca point nor any burji was placed to find out the khasra number in dispute and khasra No.3492. Even the area of khasra No.3492 was not measured to find out the exact land of khasra Nos.3492, 1693 and 1465. The demarcation report is wrong and not correct. Building of Gurudwara comprised in Khasra No.1693 is far away from the main metalled road comprised in Khasra No.3492, which is evident from site plan Annexure P-10. The petitioners are in possession since the purchase of the land and no owner can be evicted under the aforementioned provisions, in essence the Collector did not have the jurisdiction to entertain and try the petition and, thus, urges this Court for setting-aside the impugned orders.

I have heard the learned counsel for the petitioners, seen the paper book and as well as the annexures attached thereto, much less jamabandies and of the view that there is no force and substance in the submissions of Mr.Onkar Singh as the petitioners have failed to lead evidence, much less cogent, direct or corroborative in support of the defence. It was incumbent upon the petitioners to place on record the documents to show that under the garb of Khasra No.1693, in fact respondent No.4 wanted to take possession of Khasra No.3492, for which, according to the petitioners, respondent No.4 had no title. On the contrary, respondent No.4 has placed on record Ex.P2, jamabandi for the year 2003-04, demarcation report Ex.P3, subsequent demarcation conducted on 16.4.2011, Aksh Sijra Ex.P4 to support the case. Had it been so and in case there had been misappreciation, this Court would have definitely come to the rescue of the petitioners by applying the doctrine akin to judicial review.

The petitioners have miserably failed to establish that under the garb of

Khasra No.1693, respondent No.4 is seeking eviction of the petitioners from Khasra No.3492. If at all it is so, the petitioners can always raise the objection at the relevant time with regard to the identity of the property and not in the manner and mode as indicated above.

For the foregoing reasons, there is no illegality and perversity in the impugned orders. The same are hereby upheld. No ground for interference is made out.

Writ petition stands dismissed.

January 10, 2017
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No