

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH.

Letters Patent Appeal No.2298 of 2016 (O&M)  
Date of Decision: 21.3.2017

Shingara Singh ...Appellant

versus

State of Punjab and others ..Respondents

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL  
HON'BLE MR.JUSTICE RAMENDRA JAIN

Present: Mr. Navdeep Singh Brar, Advocate, for the appellant.

RAMENDRA JAIN, J.

C.M.No.4756-LPA of 2016

1. For the reasons set out in the application, which is duly supported by an affidavit, the same is allowed. Consequently, delay of 15 days in refiling the appeal is condoned.

Letters Patent Appeal No.2298 of 2016 (O&M)

2. The appellant has filed the instant Letters Patent Appeal under Clause X of the Letters Patent, challenging the judgment dated 23.8.2016 passed by the learned Single Judge, dismissing Civil Writ Petition No.17082 of 2016 filed by the petitioner (appellant herein), wherein the prayer for quashing the proceedings recorded in the Roznamcha of the Patwari dated 21.05.2015 recording delivery of possession was declined.

3. Briefly stated the facts of the case, as stated by the appellant, are that the Muslims, who were the inhabitants of the village Sudan,

migrated to Pakistan in 1947. The land belonging to the Muslims was allotted to various allottees. A mutation with respect to the shamilat land was sanctioned illegally in favour of the Gram Panchayat, on 19.10.1957. The mutation does not confer any title in the Gram Panchayat. Since the land was Banjar Qadim and was not being used for common purposes, therefore, it did not vest in the Gram Panchayat under the provisions of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as “the 1961 Act”). The land, being Banjar Qadim, was allotted to the various occupants, including the predecessors-in-interest of the petitioner for a period of 20 years under the provisions of the East Punjab Utilisation of Lands Act, 1949 (hereinafter referred to as “the 1949 Act”), which expired in 1983. However, the occupants continued to hold the land in dispute.

4. The Gram Panchayat moved an application under Section 7 of the 1961 Act, which was dismissed by the Collector. On appeal being preferred, the application was allowed by the Commissioner. Against the order passed by the Commissioner, the revision was also dismissed by the Financial Commissioner. The order passed by the Commissioner for eviction was not implemented. A new Gram Panchayat, namely, Namdev Basti, was created. The land in dispute fell within the area of the said Gram Panchayat. Since the Gram Panchayat, Sudan tried to take possession forcibly, therefore Civil Writ Petition No.22403 of 2011 was filed before this court, which was dismissed as withdrawn vide order dated 02.12.2011 with liberty to file a title suit regarding the land in dispute. Accordingly, Kapur Singh, Shingara Singh (appellant), Swaran Singh, Anokh Singh, Rur Singh, Baljinder Singh and Sukhjinder Singh filed a petition under section

11 of the 1961 Act seeking ownership in respect of the land situated within the revenue estate of Village Sudan, Tehsil Zira, District Ferozepur, which was dismissed on 22.5.2013. Against this order, appeals were filed before the Joint Development Commissioner, Rural Development Panchayat, which were dismissed on 31.3.2014 by a common judgment passed in Kapur Singh's appeal. The other appeals filed by Baljinder Singh, Anokh Singh, Rur Singh, Shingara Singh and Swaran Singh, were also disposed of. Kapur Singh, Shingara Singh, Baljinder Singh, Rur Singh and Anokh Singh filed Civil Writ Petition no.10431 of 2014 against the orders of the Collector and the Commissioner, wherein vide order dated 27.8.2014 (Annexure P-3) notice of motion was issued and status quo was ordered to be maintained. Petitioner no.2, through his son Karnail Singh, filed Civil Writ Petition No.10431 of 2014, which was unfortunately dismissed in default on 20.4.2015. On an application being moved, the writ petition was restored on 17.7.2015, which, vide order dated 21.8.2015 (Annexure P-4), was, eventually, dismissed. Against this order, a Special Leave Petition No.29593 of 2015 was filed, wherein, vide order dated 06.11.2015 (Annexure P-5), notice was issued and the status quo was ordered to be maintained. Another Special Leave Petition No.25962 of 2011 was filed, against the order of a co-ordinate Bench of this Court, by the other land owners, namely, Swaran Singh and others, in which, vide order dated 25.11.2011 (Annexure P-6) notice was issued and status quo was directed to be maintained. The action of the respondents, without an order of ejectment after the dismissal of the writ petition, in recording proceedings of dispossession, is in utterly disregard to Articles 14, 21 and 300-A of the Constitution of India and is also violative of principles of natural justice.

The Supreme Court, vide order dated 25.11.2011 in Special Leave Petition No.25962 of 2011, had granted stay in respect of some of the land. Vide letter dated 14.5.2015 (Annexure P-7) issued by the Block Development & Panchayat Officer, Ferozepur, Naib Tehsildar, Makhu, was appointed as Duty Magistrate for delivery of possession to the Panchayat, inasmuch as the status quo which has been granted in Civil Writ Petition No.10431 of 2014 against the Gram Panchayat Sudan, regarding unauthorised possession of the shamilat land, has been vacated by a co-ordinate Bench of this court. As per report of the Naib Tehsildar dated 05.01.2016 (Annexure P-8), actual vacant possession of land measuring 810 Kanals-0 Marla and symbolic possession of Gair Mumkin Abadi was handed over to Block Development and Panchayat Officer, Makhu.

5. The primary argument raised by the Learned counsel for the appellant is that the learned Single Judge has not considered this legal aspect that the matter with respect to the title of the land is pending adjudication before the Supreme Court. Learned counsel for the appellant has further contended that in the absence of any order of ejectment, the recording of proceedings of dispossession by the respondent-authorities on 21.5.2015 is arbitrary, against the spirit of law and is in violation of the principles of natural justice.

6. After giving our thoughtful considerations to the submissions raised by the learned counsel for the appellant, we find that the appeal is completely bereft of merit and is liable to be dismissed for the reasons to follow.

7. A perusal of the record shows that Kapur Singh, similarly situated person like the petitioner, filed Civil Writ Petition No.22403 of

2011 before this court, which, vide order dated 02.12.2011 (Annexure P-1) passed by this court, was got dismissed as withdrawn granting him liberty to file a title suit under section 11 of the Act. In pursuance of the directions issued by this court, Kapur Singh and others, including the petitioner, filed petitions/appeals under section 11 of the 1961 Act before the revenue authorities, claiming their ownership over the land in dispute, which were dismissed and the orders passed by them were challenged by the aforesaid persons by filing Civil Writ Petition No.10431 of 2014 before this court, seeking quashment of the orders passed by the authorities concerned and restraining the respondents-authorities from taking possession of the land in dispute, which was in their occupation. A co-ordinate Bench of this court, vide order dated 27.8.2014 (Annexure P-3), issued notice of motion and parties were directed to maintain status quo in respect of the land in dispute. Since the status quo order granted by this court on 27.8.2014 was vacated in Civil Writ Petition No. 10431 of 2014, as is apparent from the letter dated 14.5.2015 (Annexure P-7), the Block Development & Panchayat Officer, Ferozepur, appointed the Naib Tehsildar as Duty Magistrate, Makhu for delivery of possession to the Gram Panchayat. The Naib Tehsildar, visited the spot, took actual vacant possession of the land measuring 810K-10M and the symbolic possession of Gair Mumkin Abadi was given to the Block Development and Panchayat Officer vide Rapat Roznamcha No.380 dated 21.5.2015 (Annexure P-8). Civil Writ Petition No. 10431 of 2014 was, eventually dismissed vide order dated 21.8.2015 passed by a co-ordinate Bench of this court, granting liberty to the petitioners to approach the Gram Panchayat for protection of their houses etc. Feeling dissatisfied, The petitioner-Shingara Singh filed Civil Writ Petition No.17082 of 2016

challenging the Rapat Roznamcha dated 21.5.2015, whereby possession of shamilat land of the Gram Panchayat was taken from the petitioner in compliance of the order dated 14.5.2015 passed by the Block Development & Panchayat Officer, Ferozepur, which was dismissed vide order dated 23.8.2016 passed by the learned Single Judge, holding that since the possession had been taken over from the petitioner strictly in accordance with law by way of abovesaid proceedings recorded in the impugned Rapat Roznamcha dated 21.5.2015 (Annexure P-8), therefore, the same deserved to be upheld and the writ petition, being bereft of merit, was ordered to be dismissed.

8. It is evident from the sequence of events that the respondent authorities took the possession of the land vide impugned Rapat Roznamcha dated 21.5.2015 (Annexure P-8). The SLP filed against the order dated 21.8.2015 passed by a co-ordinate Bench of this court in Civil Writ Petition No.10431 of 2014 before the Supreme Court is pending where the question of title over the land in question is yet to be decided. In the said SLP, notice was issued and the status quo order was passed by the Supreme Court on 06.11.2015, i.e., much after taking over possession from the petitioner vide impugned Rapat Roznamcha dated 21.05.2015 (Annexure P-8). In the given circumstances, it can easily be inferred that the order dated 23.8.2016 passed in Civil Writ Petition No. 17082 of 2016 by the learned Single Judge is in consonance with the order dated 06.11.2015 passed by the Apex Court, whereby the status quo order was passed.

9. In view of the foregoing reasons, we do not find any illegality or impropriety in the impugned order dated 23.8.2016 passed by the learned Single Judge and as such, the same is hereby affirmed.

10.           The Letters Patent Appeal is, accordingly, dismissed.
11.           Registry is directed to bring this order to the notice of the respondents, so as to avoid any concealment of this order by the appellant.

( RAMENDRA JAIN )  
JUDGE

( AJAY KUMAR MITTAL )  
JUDGE

21.3.2017  
VK

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| 1. | Whether speaking/reasoned | Yes/No |
| 2. | Whether reportable        | Yes/No |