

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.2361 of 2018

Date of Decision.16.04.2018

Lala Wadhawa Ram Goshala Samiti

.....Petitioner

Vs

Gram Panchayat Damla and another

.....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Prateek Pandit, Advocate
for the petitioner.

-:-

AMIT RAWAL J.(ORAL)

The revision petition is directed against the impugned order dated 23.02.2018 (Annexure P-6) whereby the application submitted on behalf of respondent No.2, Sonia under Order 1 Rule 10 CPC for impleadment has been allowed.

Mr. Prateek Pandit, learned counsel appearing on behalf of the petitioner submitted that the petitioner-plaintiff instituted a suit against Gram Panchayat claiming injunction against forcible interference in the possession in respect of the suit land except in due course of law on the premise that the petitioner had installed a water tank, constructed *khurlies* and a big shed for storing water by installing submersible pump. In fact, the sheds have been maintained for welfare of the cows by the plaintiff but since the Gram Panchayat had extended threat of forcible dispossession, necessity arose to file the suit.

As per the written statement filed by the defendant as Annexure P-3, the Gram Panchayat had raised the objection with regard to filing of the suit in collusion with the Sarpanch of Gram Panchayat on the premise that the possession of the plaintiff's father over the suit property had been illegal

with a motive to grab the land of the Gram Panchayat. It was explained in para (ii) that one Anil Kumar had filed a case bearing No.13/VCL dated 9.8.2015 for ejectment of the father of the plaintiff namely Anand Parkash under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961. In the aforementioned proceedings, objection was filed regarding question of title, which was dismissed vide order dated 17.12.1997 and appeal preferred before the lower Appellate Court was also dismissed vide order dated 13.10.1998. A writ petition bearing No.1931 of 2000 at the instance of Anil Kumar was preferred in this Court and this Court while restoring the order of the Collector declared the Gram Panchayat to be owner of the aforementioned property. The Gram Panchayat filed the proceedings under Section 7(2) of the Punjab Village Common Lands (Regulation) Act as applicable to Haryana whereby the Assistant Collector 1st Grade passed the ejectment order dated 18.12.2015. The execution application is pending adjudication but in between the Sarpanch, Gram Panchayat has illegally passed resolution by virtue of which land measuring 18 kanals 18 marlas out of land out of 45 kanals 1 marla was intended to be given to plaintiff on lease. The members of the Panchayat moved an application for cancellation of the said Resolution before the Collector. The District Development & Panchayat Officer vide letter dated 7286 dated 12.07.2017 rejected the application as there was no such provision in law.

During the pendency of the suit when the same was at the stage of plaintiff's evidence, an application (Annexure P-4) at the instance of the Sonia widow of Anil Kumar was moved giving all the aforementioned facts for impleadment which was contested but the same has erroneously been allowed.

He further stated that in the injunction suit, the Court was required to adopt the principle of *dominus litus* as petitioner-plaintiff did not have any threat perception against the aforementioned person sought to be impleaded. Even the members of the Gram Panchayat also moved a similar application (Annexure P-7) but the same has been dismissed vide order dated 30.10.2017 (Annexure P-8). There is already status quo order in favour of the plaintiff. Since the execution application seeking enforcement of the ejectment order is pending, the application was not maintainable and it should have been dismissed being not a necessary and proper party.

I have heard learned counsel for the petitioner, appraised the paper book and of the view that there is no force and merit in the submission of Mr. Pandit. The facts as culled out from the pleadings of the written statement, much less, the execution application seeking implementation of the ejectment order are not in dispute. The members of Gram Panchayat moved a similar application which has been dismissed. There may be some kind of apparent collusion between the plaintiff and the Sarpanch but I do not deem it appropriate to delve upon the same as it might affect the suit pending adjudication but the fact of the matter is that the application moved at the instance of Sonia widow of Anil Kumar, who is a whistle blower seeking ejectment of the unauthorized person, is permissible as per Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 as applicable to Haryana. In fact, she is espousing the cause of the Gram Panchayat whereby the Gram Panchayat had not come forward to protect its interest or the property belonging to it. Even title of the property had already attained finality by this Court in CWP No.1931 of 2000. From

the memo of parties, it is revealed that the Gram Panchayat is sued only through Sarpanch.

In view of the aforementioned, I do not find any illegality and perversity in the order under challenge, much less, the same cannot be said to be passed without jurisdiction or beyond jurisdiction. No ground for interference is made out. The revision petition stands dismissed.

(AMIT RAWAL)
JUDGE

April 16, 2018
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No