

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 10312 of 2017 (O&M)
Date of decision: 12.2.2018

Mani Ram

.. Petitioner

v.

Commissioner, Hisar Division, Hisar and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ajay Jain, Advocate for the petitioner.

...

Rajesh Bindal J.

The orders passed by the authorities under the Punjab Village Common Lands (Regulation) Act, 1961 (for short, 'the Act'), as applicable to the State of Haryana, whereby eviction of the petitioner has been ordered from the land in dispute, have been impugned in the present writ petition.

The eviction petition was filed by the Gram Panchayat under Section 7(1) of the Act claiming that the land is recorded in the name of Gram Panchayat and at the time of demarcation, it was found that the petitioner is in unauthorised possession of 2 kanals and 12 marlas of land. As a consequence, his eviction was directed. In terms of Section 7(2) of the Act, he was further directed to pay a sum of ₹ 10,000/- per hectare per annum as penalty.

Learned counsel for the petitioner submitted that the land is not shown to be shamlat deh, hence, application under Section 7(1) of the Act was not maintainable. From the jamabandis placed on record, it is clear that the land is recorded in the ownership of Gram Panchayat and Forest Department is in possession thereof. Meaning thereby, ownership of Gram Panchayat as such is not in dispute and the petitioner herein is certainly in unauthorised possession as in the revenue record, possession has been shown to be of the Forest Department. Once it is so, there is no error in the orders passed by the authorities directing eviction of the petitioner from the land in dispute, which is in his unauthorised possession. The petitioner has not been able to produce anything on record to substantiate his plea that the land in question was given to him for cultivation, which initially was part of the johar.

As far as imposition of penalty is concerned, Section 7(2) of the Act provides that minimum of ₹ 5,000/- and maximum of ₹ 10,000/- per hectare per annum penalty can be imposed for unauthorised occupation of the land. The plea that no reasons have been recorded to impose maximum penalty is merely to be noticed and rejected for the reason that amount of penalty is too meager. The Act was enacted in the year 1961 providing for even minimum ₹ 5,000/- per hectare per annum as penalty. The value of land and its utility have increased manifold in the last more than 65 years, but nothing has been done to up-date the laws. Amount of penalty of ₹ 10,000/- per hectare per annum levied on the petitioner for unauthorised occupation of the panchayat land cannot be said to be on the higher side.

Accordingly, the writ petition is dismissed.

We recommend to the State that it should examine as to whether amount of penalty provided under Section 7(2) of the Act needs revision in view of changed circumstances with lapse of 65 years after the Act was enacted.

Copy of the order be sent to Chief Secretary, Haryana.

(Rajesh Bindal)
Judge

(ANIL KSHETARPAL)
Judge

12.2.2018
mk

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No