

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.12871 of 2018
Date of Decision:20.11.2018

Joginder Singh (since deceased) through his LRs

. Petitioners

Vs.

The Director rural Development & Panchyat, Punjab and others

. Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN
HON'BLE MR.JUSTICE ANUPINDER SINGH GREWAL

Present: - Mr.B.S. Jaswal, Advocate, for the petitioners.

RAKESH KUMAR JAIN, J.

The petitioners are the legal heirs of one Joginder Singh, who have challenged the order dated 5.12.2012 passed by the Collector by which petition filed by Joginder Singh under Section 11 of the Punjab Village Common Land (Regulation) Act, 1961 [for short 'the Act'] for declaration that he is the owner in possession of land measuring 1 kanal 10 marla falling in Khewat Khatauni No.1554/2578, Khasra No.269 min as per jamabandi for the year 2004-2005 situated at Village Jasraur, Tehsil Ajnala, District Amritsar and for permanent injunction to restrain the respondent/defendant from seeking his ejection by way of an application filed before the Court of DDPO, Amritsar was dismissed and the order dated 13.10.2017 by which the appeal filed by him under Section 11(2) of the Act was also dismissed by the Commissioner.

Learned counsel for the petitioners has submitted that the land falling in Khasra No.269 min is *Shamlath Deh*, was owned by Makbuja Bashindgan, on which Joginder Singh was in possession by raising construction of a room over 1 kanal 10 marla of land. According to him the

land was reserved for bus stand but it was never used for that purpose, therefore, it belongs to the proprietors. It is further submitted that the order passed by both the Courts below are patently erroneous and are liable to be set aside.

We have heard learned counsel for the petitioners and after perusal of record, are of the considered opinion that there is no error in the impugned orders passed by the Courts below. The petitioners have failed to prove on record, with the evidence, to the effect that they are the members of proprietary body and because the entry in the jamabandi for the year 1994-95, the predecessor-in-interest has been recorded as gair marusi i.e. the tenant at will and has failed to show how much land was given by him at the time of consolidation in the pool created of the land to be used for the common purposes.

Thus in view of the absence of the evidence of the ownership of Joginder Singh, the petitioners cannot claim a declaration of ownership over the land in question only on the basis of possession which has already been proved to be unauthorized in the petition filed by the Panchayat under Section 7 of the Act in which order of eviction has already been passed though the proceedings are allegedly pending.

No other point has been raised.

In view of the aforesaid facts and circumstances, we do not find any merit in the present petition and the same is hereby dismissed.

(RAKESH KUMAR JAIN)
JUDGE

(ANUPINDER SINGH GREWAL)
JUDGE

20.11.2018

Vivek

Whether speaking /reasoned : Yes/No

Whether Reportable : Yes/No