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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-15650-2018

Date of decision : 21.06.2018

Ajit Singh and others

...Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL
HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present: Mr. K.D. Sachdeva, Advocate
for the petitioners.

Mr. Charanpal Singh Bagri, Advocate
for the caveator/respondent No.6.

AMIT RAWAL, J. (ORAL)

The petitioners have approached this Court under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the orders dated 30.05.2018 (Annexure P-13) passed by respondent No.3 and order 25.10.2017 (Annexure P-6) passed by respondent No.4, in a proceeding initiated under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (in short 'the 1961 Act').

Learned counsel for the petitioners submitted that the father of the petitioners had taken the land bearing khasra Nos.580 (6-5), 579(6-5) and 581 (6-5), Khewat No.100/241 and 231, measuring 18 kanals 15 marlas, situated at Village Paharpur, Tehsil and District Patiala. The reliance has been laid to the khasra girdawaries (Annexure P-1). It has been urged that

Chakota had been paid from time to time by annexing the copy of the receipts (Annexure P-3 to P-5). The Gram Panchayat instituted the petition under the aforementioned provisions of the 1961 Act on 03.10.2017 and the District Development and Panchayat Officer, Patiala by exercising the powers of Collector in undue haste passed the eviction order. There is no reference to the khasra girdawaries or receipts. The statutory appeal under sub-Section 2 of Section 7 of the 1961 Act was preferred before the Appellate Authority i.e. Joint Development Commissioner and vide order dated 01.11.2017 stated the eviction order till 08.11.2017. The Appellate Authority, thereafter, did not hold the Court, necessitating the petitioners to approach this Court vide CWP No.27051 of 2017. This Court vide order dated 28.11.2017 directed the Appellate Authority to decide the appeal at the earliest, but not later than three months from the date of receiving a certified copy of the order and in the meantime, stay granted by the Appellate Authority was ordered to continue. The appeal has been dismissed vide order dated 30.05.2018 and the certified copy of the same has been supplied on 19.06.2018. The impugned orders, under challenge, are not sustainable in the eyes of law, for, there is no reference to the khasra girdawaries or the receipts, therefore, it has been passed in a most abrogative and mechanical manner.

It was next contended that the petitioners had already sown the sugarcane crop and it would be ripe for harvesting in the month of October 2018 and therefore, prayed for *ad interim* injunction till the crop is ready for harvesting and be allowed to take care of the same.

Learned counsel appearing on behalf of the caveator/respondent No.6/Gram Panchayat, submitted that after passing of

the eviction order dated 25.10.2017, warrant of possession was issued on 27.10.2017, whereby, Tehsildar was directed to comply with the order of eviction by handing over the possession. The possession was taken by the Gram Panchayat, but the petitioner forcibly reoccupied the land under the garb of the interim stay granted by the Appellate Authority, which fact has been noticed in the impugned order. The status of the tenant would be that of tenant and cannot be permitted to continue with the possession, when the relationship of landlord and tenant ceased to exist, thus, urges this Court for dismissal of the present writ petition.

We have heard learned counsel for the parties, appraised the paper book and of the view that there is no merit and force in the submissions of Mr. Sachdeva, for, the stay order granted by the Appellate Authority is dated 01.11.2017 and warrant of possession were issued on 27.10.2017, in lieu thereof. Tehsildar had already obtained the possession from the petitioner and handed over to the Gram Panchayat. This fact has been noticed by the Appellate Authority, which had not been controverted by filing any affidavit or by placing any material. No such fresh material has also been placed with the present writ petition. The petitioners cannot be permitted to occupy the land allegedly under the Tenancy Act, which had been in vogue since long.

The receipts do not prove the relationship of the petitioners as tenants, for, no resolution of the Gram Panchayat has seen the light of the day deciding to lease out the land to the petitioner, thus. the contention of the Gram Panchayat taken in the eviction petition as well as before the Appellate Authority with regard to the status of the petitioners as trespasser has fully been proved.

Keeping in view the facts and circumstances of the case, the impugned orders does not fall under the realm of judicial review enabling this Court to form a different opinion than the one arrived at by the Appellate Authority.

No ground is made out for interference.

Dismissed.

(AMIT RAWAL)
JUDGE

21.06.2018
Yogesh Sharma

(AVNEESH JHINGAN)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No