

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.23443 of 2014

DATE OF DECISION: NOVEMBER 12, 2018

RAM DASS

...PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENT

**CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL.
HON'BLE MR. JUSTICE MANOJ BAJAJ.**

PRESENT: MR. PARAMVIR SINGH SIKAND, ADVOCATE
FOR THE PETITIONER.

MR. ANKUR MITTAL, ADDL.A.G., HARYANA.

MR. JAI PARKASH SHARMA, ADVOCATE
FOR RESPONDENT NO.6.

MANOJ BAJAJ, J.

Ram Dass son of Lal Singh has preferred this writ petition to challenge the order of eviction dated 14.6.2011 (Annexure P-12), passed by the Assistant Collector 1st Grade, Kaithal alongwith the orders dated 18.10.2011 (Annexure P-13) and 11.7.2014 (Annexure P-14) passed by the District Collector, Kaithal and Commissioner, Ambala Division, Ambala respectively, upholding the order of eviction. The petitioner was ejected from the land in question being in unauthorized possession. Further, a penalty @ ₹5000/- per hectare was also imposed w.e.f. 5.12.2006 till the removal of the unauthorized possession.

Learned counsel for the petitioner had founded his claim on the letter dated 16.5.1997 (Annexure P-6), whereby an offer was made to the father of the petitioner to deposit the assessed amount and the same was

evaluated at ₹60,325/-. A period of one week was given to deposit the amount in Panchayat funds, failing which legal action was to follow. The said offer was made after a long litigation initiated by the Gram Panchayat, village Pabnawa, Tehsil and District Kaithal against the father of the petitioner by way of filing the ejectment application in Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961. The earlier order of eviction was passed on 24.12.1980 (Annexure P-4). Later on, Assistant Collector 1st Grade, Kaithal vide order dated 24.12.1980 (Annexure P-5) directed Lal Singh (father of the petitioner) to file a petition under Section 13-A of the Punjab Village Common Lands (Regulation) Act, 1961 for getting the question of title decided. Letter dated 16.5.1997 (Annexure P-6) reveals that the father of the petitioner had made a statement and prayed that whatever price is assessed by the Revenue Department, the same shall be deposited in the Panchayat funds. On the basis of the same, a decision was taken and communication dated 16.5.1997 was sent for deposit of cost of land in question.

In response to the writ petition, written reply has been filed by respondents No.2 to 4 and 7 contesting the claim on the ground that the father of the petitioner was in unauthorized possession of the passage in Khasra No.387. History of previous litigation is also narrated in the written statement. It is further indicated that vide letter dated 16.5.1997 (Annexure P-6), the father of the petitioner was asked to deposit the price of the land amounting to ₹60,325/- within 7 days. The said offer was never availed and amount was not deposited. Fresh proceedings were initiated against the petitioner for retrieving the possession.

We have heard the learned counsel for the parties and with their assistance gone through the case file. There is no dispute that previously also the eviction was ordered and relaxation was shown, when the offer was given to deposit the amount to get the unauthorized possession legalized. Instead of availing the golden opportunity to cure the defect, the petitioner or his father continued to remain in unauthorized possession of the land in question. This compelled initiation of fresh proceedings for eviction which have been decided by the competent authorities and the same are under challenge in this writ petition.

We have carefully examined the impugned decisions and find that there is categorical finding recorded by the Assistant Collector 1st Grade, Kaithal that as per the Revenue record, the land in question is owned by the Gram Panchayat and the unauthorized possession of the petitioner is established. The demarcation report dated 30.3.2011 (Ex.R4) has been relied upon to record a finding that the petitioner and other persons are shown to be in unauthorized possession of Khasra No.387 which is a Gair Mumkin Street. At the same time, a direction was issued to the BDPO, Pundri to initiate action in accordance with law against the other illegal occupants of the property in question. The appellate Court and the revisional Court have affirmed the findings with the observation that sufficient opportunity was given to both the parties to produce the evidence and found that the order by the Assistant Collector 1st Grade, Kaithal does not warrant any interference. More so, the stand of the father of the petitioner that he is willing to deposit the amount indicates his unauthorized possession. Had he been in any kind of ownership, there was no occasion

for him to make such a statement. We find that the orders passed by the statutory Authorities are based on proper appreciation of the material on record and the impugned orders do not suffer from any illegality and warrant any interference.

At this stage, learned counsel for the petitioner has argued that the petitioner is ready and willing to deposit the amount in terms of the letter (Annexure P-6) as he has also constructed the house over the said land. The said argument is opposed by the learned counsel for the respondents and according to them, the said offer is no more in existence as the authorities have subsequently passed the eviction order.

We have considered this argument as well and have no hesitation in holding that the offer as contained in Annexure P-6 is no more in existence, as the same was for a limited period. Instead of promptly availing the offer by depositing the amount, no steps were taken to legalize the unauthorized possession by the petitioner or his father. The petitioner cannot cling to the offer made in the year 1997, after a period of more than 20 years. We find no reason to interfere.

The writ petition is accordingly, dismissed.

(RAJESH BINDAL)
JUDGE

(MANOJ BAJAJ)
JUDGE

November 12, 2018
Gulati

Whether Reportable : Yes/No
Whether Speaking/Reasoned : Yes/No