

CWP NO.16737 OF 2018(O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA CHANDIGARH

CWP NO.16737 OF 2018(O&M)

Date of Decision: 29.10.2018

Mahender Pal

.....Petitioner

versus

State of Haryana and others

.....Respondents

**CORAM HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**

Present Mr.P.S.Jammu, Advocate for the petitioner.
Mr.Ankur Mittal, Addl. AG, Haryana
with Mr. Manoj Dhankhar, AAG, Haryana.

RAJESH BINDAL, J

The petitioner has filed the present petition challenging the order dated 22.02.2017 passed by Asstt. Collector Ist Grade, Sirsa directing eviction of the petitioner.

The stand taken by learned counsel for the petitioner was that infact the petitioner had filed a petition under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter called as 'the Act of 1961') seeking eviction of Bagh Chand, Jai Lal and Karnail Chand as they were in illegal occupation of the Panchayat land. To the surprise of the petitioner, order was passed on 22.02.2017 wherein title of the parties was changed, treating the same to be a petition filed by Gram Panchayat against the petitioner and his eviction from the land was ordered. The petitioner is not in possession of any portion of land as mentioned in the order.

On 11.07.2018, this Court passed the following order:

“Contentds that no case has been filed by the

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Gram Panchayat titled as 'Gram Panchayat Sangar Sarista vs. Mahender Pal'. The impugned order, however, shows that case no.150 VCL was instituted on 8.12.2016 and decided on 22.2.2017 titled as 'Gram Panchayat Sangar Sarista vs. Mahender Pal'.

Let a report to this effect be submitted by the Assistant Collector, First Grade, Sirsa before the date fixed in the first instance before we proceed with the matter. It is made clear to the learned counsel for the petitioner that in case his assertion is found to be incorrect, petitioner would be burdened with costs of Rs.5 lacs.

List again on 4.10.2018.”

On 22.10.2018, learned counsel for the State submitted that the facts stated by learned counsel for the petitioner are correct as in the petition for eviction filed by him against other unauthorized occupants, his eviction was ordered. The officer who passed the order was directed to be present in person in the Court.

Today Paramjit Singh Chahal, the then Asstt. Collector Ist Grade, Sirsa is present in person in Court. He tendered his unconditional apology for the error committed.

Learned counsel for the petitioner has further submitted that an application for review of the order was filed by the petitioner, however, same was also not dealt with.

Learned counsel for the State submitted that Paramjit Singh Chahal, the then Asstt. Collector Ist Grade, Sirsa was transferred from there

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on 15.03.2017 and is presently posted as Sub Divisional Magistrate, Hisar. Application filed by the petitioner for review remained pending. Presently, the application is listed on 06.11.2018 and the same shall be disposed of on that day.

As the present incumbent of the post namely Sh. Prit Pal Singh, City Magistrate is also present in person in Court and submitted that the application filed by the petitioner shall be disposed of on the next date of hearing fixed, we do not deem it appropriate to deal with his prayer to set aside the order. Let the authority first examine as to whether the order earlier passed was correct or not.

As far as the conduct of the respondent no.3 is concerned, in our view, it is not a case in which an apology can be accepted from an officer who has been entrusted to deal with the rights of the parties as a quasi judicial authority where the order passed by him has unnecessarily generated litigation and also harassment to the petitioner. Whether such kind of officers should be entrusted with adjudicatory powers needs to be examined by the Chief Secretary. Let the matter be placed before him to examine the same so that the litigants are not harassed by the kind of orders passed in the present case.

Writ petition is disposed of accordingly.

(RAJESH BINDAL)
JUDGE

29.10.2018
mamta

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No