

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

**CWP No.567 of 2018 (O&M)
Date of Decision:04.10.2018**

Gurdial Singh

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE G. S. SANDHAWALIA

Present: Mr. Umesh Kumar Kanwar, Advocate
for the petitioner.

G.S. SANDHAWALIA, J. (ORAL)

CM-14891-CWP-2018

Application under Section 151 of CPC for placing on record copy of petition dated 28.08.2015 (Annexure P-12) and reply dated 20.10.2015 (Annexure P-13), is allowed subject to all just exceptions. The same are taken on record. Office to tag the same at appropriate place.

CM stands disposed of.

CWP No.567 of 2018

The present writ petition has been filed under Articles 226/227 of the Constitution of India challenging the orders of eviction dated 01.03.2016 (Annexure P-9) and 01.11.2017 (Annexure P-10) passed by the authorities below under the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 for land measuring 18 kanals 8 marlas. The Collector vide order dated 01.03.2016 (Annexure P-9) has ordered the eviction which has been upheld by the Commissioner on 01.11.2017 (Annexure P-10).

A perusal of the petition would go on to show that it had

been averred that the Gram Panchayat was the owner of the land vested in it and on earlier occasion a civil suit had been filed by the petitioner which had been dismissed on 04.05.1987. While dismissing the appeal, the District Judge, Sangrur vide order dated 14.06.1989 had protected the petitioner from dispossession except as provided under the law. The petition was resisted only on the ground that the land was recorded as Jumla Malkan, Hasab Rasad, Khewat Gram Panchayat (Annexure P-9) and that the petitioner was khewatdar of the village and a co-sharer.

The Collector while deciding the application noticed that Jamabandi for the year 1985-86 showed that the land was Jumla Malkan Hasab Rasad and the same could not be partitioned and was to be managed by the Gram Panchayat. Resultantly, eviction proceedings were allowed. The appeal had been dismissed on the ground that the civil suit had already been decided and it protected the petitioner only to the extent that the legal process had to be followed and accordingly, it was held that the Gram Panchayat has a right to evict the illegal occupants and had the right to manage the land.

A perusal of the judgment of the lower Appellate Court dated 14.06.1989 (Annexure P-11) would go on show that initially the trial Court on 04.05.1987 had dismissed the suit for permanent injunction and the Appellate Court had reversed the findings to the extent that it was found that the possession as such was of the petitioner/plaintiff and therefore, he could not be forcibly dispossessed.

Petitioner had never as such got his title clarified in any manner from the Court of competent jurisdiction. The summary process which has been resorted to, has thus, been justified in the facts and

circumstances, as the Gram Panchayat continues to be owner of the land in question as such and the petitioner had no exclusive right of possession. Resultantly, the orders passed by the authorities below do not suffer from any infirmity and do not want any interference by this Court under the extraordinary writ jurisdiction.

Resultantly, there is no merit in the present writ petition and the same is dismissed in limine.

04.10.2018
pvd

(G.S. SANDHAWALIA)
JUDGE

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