

219

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

**Civil Revision No.6953 of 2016(O&M)
Date of Decision: 18.01.2019**

PALA RAM

.....Petitioner

Vs

MUNICIPAL COMMITTEE AND ANR

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Ashish Aggarwal, Sr. Advocate with
Ms. Shemona Sabharwal, Advocate
for the petitioner.

Ms. Nupur Chaudhary, Advocate
for the respondents.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner has approached this Court against the concurrent orders passed by the Courts below under Order 39 Rules 1 & 2 CPC dismissing the application on the ground that the petitioner was not proved to be in possession of the land in question.

[2]. Learned Senior counsel for the petitioner submitted that the land in question was given to the forefathers of the petitioner under the utilization scheme. Initially the land was jungle and the same was improved by the ancestors of the petitioner by

incurring a huge expenses. After re-organization of Haryana, the Gram Panchayat started leasing out the land in question to the petitioner w.e.f. 1974-1975. In the year 1996, Municipal Committee, Cheeka came to be formed and Municipal Committee, Cheeka also continued to lease out the land in question to the petitioner on fixed *chakota*. Petitioner had constructed *Kotha* and installed tubewell in the land in question. Lease of the land in question expired in May, 2016. When the respondents intended to take forcible possession of the land in question, the plaintiff/petitioner filed a suit for permanent injunction on 17.08.2016. Both the Courts below have dismissed the prayer made by the petitioner and that is how the present revision petition came to be filed before this Court.

[3]. Learned Senior counsel further submitted that the land in question is comprising in Rect. No.10, 11, 20 & 21 total measuring 30 Kanals 18 Marlas.

[4]. On the other hand, learned counsel for the respondents submitted that the land which was comprised in Rect. No.43 was earmarked for Girls college and the land in question is adjacent to the said land. After the expiry of the lease period, the petitioner had surrendered his possession voluntarily and after taking the possession, the respondents have started construction of Girls college and the possession was given to

Police Housing Corporation as per resolution dated 23.09.2015.

[5]. I have considered the submissions made by learned counsel for the parties.

[6]. The factum of possession is hotly contested before this Court. Notice of motion was issued on 19.10.2016 and status quo qua suit property as it existed on 19.10.2016 was ordered to be maintained. Thereafter both the parties showed their concurrence that the suit land be got inspected by the Local Commissioner. On the basis of concurrence shown by both the parties, Mr. Manvinder Dalal, Advocate was appointed as Local Commissioner vide order dated 13.12.2016. The said order reads as under:-

“Since both the learned counsel for the parties are in unison regarding the possession of the suit property, I deem it appropriate to appoint Mr. Manvinder Dalal, Advocate as Local Commissioner to inspect the agricultural land on 21.12.2016 by giving advance notice to both the parties, who will take assistance of the Local Kanungo and Patwari for ascertaining the possession of the suit property, in essence, whether the petitioner-plaintiff herein is in possession or the Municipal Committee has handed over the possession to the Police Housing Corporation for construction of the Government Girls College Guhla.

The fees of the Local Commissioner is assessed to the tune of ₹.30,000/- to be paid by the petitioner.

Adjourned to 23.12.2016 for awaiting the report of Local Commissioner.

To be shown in the urgent list.”

[7]. The Local Commissioner vide his report dated 22.12.2016 found the following factual position on the spot:-

- “7. That at first the undersigned had inspected Killa No.10 of the land in dispute. On the said land there is standing crops of Sarson thereupon in good length of about 2 feet. Photograph of Killa No.10 is annexed herewith as Annexure A-3.
8. Thereafter the undersigned inspected Killa No.11, on adjoining Killa No.11 i.e. killa no.15 there is full construction being carried out for constructing Higher Education Govt Girls College, accordingly on small portion of Killa No.11 (approximately 11-1/2 feet x 124 feet) there is construction of 7 standing Iron Rods for pillars and also ground has been dug up in which water was standing with the mud coming out of the said dug up area lying next to the dug up area. On the rest of this killa No.11 there is crops of Sarson has been sown/standing of the same size as in killa No.10. Photographs of this site killa No.11 are annexed herewith as annexures A/4(1&2).
9. Thereafter the undersigned inspected Killa Nos.20 & 21. On killa No.20, there is Kotha (a small room) as well tubewell installed thereupon, which is irrigating killa Nos.20 & 21. On both the killa Nos.20 & 21 there are standing crops of Sarson. Photographs of Kotha as well as running tubewell, and standing crop Sarson are annexed herewith as annexure A/5 (1 to 4).
10. That it would be relevant to apprise this Hon'ble Court that the undersigned had put a specific query to the concerned Patwari that whether there

is any entry with regard to the land in dispute in the year 2016 in his Roznamcha Wakiayati Diary as per rule 9.9 of the Punjab Land Record Manual with regard to the change of cultivating possession or possession being handed over to the College Authorities, to which the Patwari specifically denied there being any entry qua change of cultivating possession or handing over of possession to Municipal Committee or by Municipal Committee to the Police Housing Corporation for constructing Girls College. So far as the standing crops are concerned, it was claimed to have been sown by the petitioner-plaintiff and there was no disagreement over the said aspect by the respondents or the persons present at the site. Thus, it is opined that besides certain part of killa No.11, the rest of the land in dispute is in possession of the petitioner-plaintiff-Pala Ram.”

[8]. Evidently, part construction was found on Killa No.11 and on remaining part of this khasra number, even crop was found standing. Killa Nos.10, 20 and 21 were not found under any construction, rather crops were found standing in these killa numbers.

[9]. Respondents have filed objection to the aforesaid report of the Local Commissioner and the petitioner has filed reply to the said objections as well. The matter is still pending before the trial Court.

[10]. At this stage, learned Senior counsel for the petitioner pointed out that the plaintiff has already completed his evidence. One of the defendant's witness has been examined on 09.10.2018 and the case is pending for remaining defendants evidence before the trial Court.

[11]. This Court can take judicial notice of the fact that the land was being leased out to the plaintiff on yearly basis. The lease stands expired w.e.f. 31.05.2016, but the plaintiff/petitioner remained in possession of the land in question even after expiry of the lease. Petitioner has not paid lease amount to the respondent till date after May 2016.

[12]. Both the parties are *ad idem* that the lease amount prevailing in the area is not less than Rs.25,000/- per acre per annum by any stretch of imagination. Petitioner is in possession of about four acres of land. It would be appropriate to direct the parties to maintain *status quo* till disposal of the suit which is already fixed for defendants evidence. Petitioner would be liable to pay consolidated amount of Rs.3 lakhs to the respondents within a period of one month for enjoying the fruits of the land even after expiry of the lease in May 2016 till date. Ordered accordingly. It is made clear that the aforesaid arrangement shall not be construed as an opinion for extension of lease in any manner.

[13]. Trial Court is directed to make every possible endeavour to decide the suit at the earliest preferably within a period of six months from the next date of hearing. The order of *status quo* shall be subject to the deposit of the aforesaid amount by the plaintiff within one month, failing which the rigor of this order would not apply.

[14]. With the aforesaid direction, this revision petition is disposed of.

January 18, 2019

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No