

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

**Civil Writ Petition No. 10673 of 2019 (O&M)
Date of Decision: 22.10.2019**

Birkha (deceased) through his legal heirs and others

..... Petitioner

Versus

The Divisional Commissioner, Rohtak Division, Rohtak and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE LALIT BATRA**

Present: Mr. Vivek Kumar Sharma, Advocate for
Mr. Ashwani Gaur, Advocate for the petitioners.

JASWANT SINGH, J. (ORAL)

By filing the present petition, the petitioners are seeking for quashing of the order dated 10.05.2012 (**Annexure P-4**) passed by Assistant Collector, First Grade, Bahadurgarh, whereby application under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961, moved by the private respondents herein was allowed, while evicting the petitioners (respondents therein) from the land in dispute; **further** quashing of the order dated 15.10.2013 (**Annexure P-5**) passed by the Collector, Jhajjar, while dismissing the appeal filed by the petitioners herein; **as also** quashing the order dated 20.08.2018 (**Annexure P-6**) passed by the Divisional Commissioner, Rohtak Division, Rohtak, whereby the revision filed by the petitioners was also dismissed.

A perusal of the case/order reveals that on 15.07.2019, the following order was passed:-

*Present: Mr. Ashwani Gaur, Advocate,
for the petitioners.*

*Learned counsel for the petitioners, inter alia,
contends that the predecessor in interest of the petitioners*

were in possession of the land in question as gair marusi. The issue involved in this case is as to whether the predecessor in interest of the petitioners were occupying the land in dispute authorizedly (as tenant) 12 years before 26.01.1950 and to the extent of their share in the shamlat land ?

Learned counsel for the petitioners, in support of his contention, has referred to the jamabandi for the year 1924-25 (Annexure P-7) and has indicated Khasra Nos. 2324 and 2325 to contend that these Khasra Nos. are in possession of the predecessor in interest of the petitioners as Gair Marusi who have been paying Maal (Revenue). He has then referred to the jamabandi for the year 1944-45 in which reference of the aforesaid two khasra Nos. is there but jamabandi for the year 1960-61 does not talk of the aforesaid Khasra Nos. It appears that the predecessor in interest of the petitioners were dispossessed from the land in dispute at that time, therefore, there is no such entry of Gair marusi, whereas they are stated to be still in possession. Section 7 of the Punjab Village and Common Lands Act, 1961 was thus, filed against the petitioners on the ground that they are occupying the shamlat land unauthorizedly.

Learned counsel for the petitioner prays for an adjournment to refer to the other revenue record in order to show that they are in continuous possession of the Gair marusi land on payment of rent/cess.

On his request, hearing of this case is adjourned to 26.08.2019.

-sd-
(RAKESH KUMAR JAIN)
JUDGE

July 15, 2019

-sd-
(ARUN KUMAR TYAGI)
JUDGE

Thereafter, on 26.08.2019, a request for more time to comply with the aforesaid order was made and the case was got adjourned to 20.09.2019. On 20.09.2019, yet again more time was sought and the

*Present: Mr. Ashwani Gaur, Advocate,
for the petitioners.*

*Though the case has been adjourned repeatedly on
the request of counsel for the petitioners to place on record
the revenue record but today again the same request is made.*

*Last opportunity is granted. It is made clear that if
the documents are not produced as directed, the writ petition
shall be dismissed for non-prosecution.*

Adjourned to 22.10.2019.

*-sd-
(RAKESH KUMAR JAIN)
JUDGE*

September 20, 2019
*-sd-
(ARUN KUMAR TYAGI)
JUDGE*

At the time of hearing today, counsel for the petitioners submits
that in view of the previous order dated 20.09.2019, an appropriate order be
passed as the necessary revenue record has not been produced before this
Court.

Due to inability expressed by counsel for the petitioners, this
Court is constrained to uphold the findings recorded in the order dated
10.05.2012 **(P-4)** passed by the Assistant Collector First Grade,
Bahadurgarh, hence, the present petition is liable to be dismissed.

Dismissed.

**(JASWANT SINGH)
JUDGE**

October 22, 2019
'dk kamra'

**(LALIT BATRA)
JUDGE**

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>