

CWP-9964-2019

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

CWP-9964-2019.

Decided on: April 12, 2019.

Mohan Lal

.. Petitioner

VERSUS

State of Haryana and others

.. Respondents

*** * ***

**CORAM: HON'BLE MR.JUSTICE JASWANT SINGH
HON'BLE MR.JUSTICE B.S.WALIA**

*** * ***

**PRESENT Mr.J.P.Sharma, Advocate,
for the petitioner.**

JASWANT SINGH, J. (ORAL)

Petitioner Mohan Lal son of Sarupa son of Yad Ram, is a resident of village Salhawas, Tehsil and District Rewari. He along with his brothers Rattan Lal – respondent No.5 and Lala Ram – respondent No.6, were ordered to be evicted from the disputed agricultural land measuring 38 kanals 14 marlas comprised in Khewat No.43, Khatauni No.86, Rect.No.24 Killa No.11(7-7) Rect No.25, Killa Nos.14(6-16), 15(7-7) and 16(5-18), 17 (9-4) and 26 (2-2), situated in Siwana, village Jarthal, Tehsil and District Rewari, on the eviction application filed by the Gram Panchayat under Section 7 of the Punjab Village Common Lands (Regulation) 1961 Act, way

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back, vide order dated 7.12.1993 (Annexure P3), passed by the Assistant Collector First Grade, Rewari, being unauthorized occupants. A penalty @ Rs.15000/- per annum was also imposed from the date of filing of the application i.e. 29.9.1992, till the date of vacating the possession.

Appeal filed by Mohan Lal (Petitioner) and his brothers (respondent Nos.5 and 6 herein) was also dismissed vide order dated 12.4.1994 (Annexure P4), passed by the Collector, Rewari.

Subsequently, CWP No.6373 of 1994, was filed by them challenging aforesaid orders Annexures P3 and P4, which was decided vide order dated 20.1.2016 (Annexure P5) and the Division Bench of this Court while dismissing the writ petition extended limited leverage to the extent of 2 kanals 2 marlas out of total land in dispute whereby the authorities were directed to ascertain the correct facts regarding ownership of that land by a private person namely Mahant Laxman Dass and if it was found to be true then the dispossession from such land comprising of 2 kanals 2 marlas pursuant to the impugned eviction orders was protected.

The SLP filed by the petitioner and his brothers against order dated 20.1.2016 (Annexure P5) was also dismissed.

Petitioner - Mohan Lal has filed the instant petition seeking issuance of a writ in the nature of mandamus directing the Gram Panchayat to sell off the land which is in unauthorised possession of the petitioner along with his brothers at the market price and is stated to be in their continuous possession since long.

After hearing the counsel for the petitioner at length, we

find no grounds to invoke the extra ordinary writ jurisdiction of this Court under Article 226 of the Constitution of India.

Admittedly, the petitioner and his brothers stand evicted from the land in dispute vide order dated 7.12.1993 (Annexure P3) passed by the Assistant Collector First Grade, Rewari; duly affirmed in appeal vide order dated 12.4.1994 (Annexure P4), passed by the Collector, Rewari; and also by this Court in CWP No.6373 of 1994, decided vide order dated 20.1.2016 (Annexure P5) as well as by Hon'ble the Supreme Court dismissing the SLP preferred by the petitioner and his brothers against order dated 20.1.2016 (Annexure P5).

Once the orders of eviction have been passed in favour of the Gram Panchayat after due contest around 26 years back, we cannot direct the Panchayat, let alone, compel it to sell off the land to the petitioner and his brothers who have been declared as unauthorized occupants by the competent authority under the law. They have also not paid the accrued huge amounts of penalty for the unauthorized use and occupation of the land belonging to the Gram Panchayat in terms of eviction order dated 7.12.1993 (Annexure P3). The courts are to exercise equity depending on the circumstances of the case, however, cannot step over the line and violate the lawful right of the Gram Panchayat merely because it is a legal entity which represents common interests and villagers. It is a fit case where individual interest, if any, has to give way to the lawful larger interest represented by the Gram Panchayat. We cannot become a party under the guise of equitable jurisdiction to perpetuate and support the unauthorized

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possession.

In view of above, we find no ground to invoke the writ jurisdiction under Article 226 of the Constitution of India and the instant writ petition is, thus, dismissed.

(JASWANT SINGH)
JUDGE

April 12, 2019.
raj arora

(B.S.WALIA)
JUDGE

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