

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

117

**CWP No.15279 of 2019
Date of Decision: 17.07.2019**

Chuni Lal

.....Petitioner

Versus

Commissioner, Gurugram Division, Gurugram & othersRespondents

**CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI**

Present : Mr. Sanjay Mittal, Advocate for the petitioner.

RAKESH KUMAR JAIN, J. (ORAL)

This petition is directed against the orders of Assistant Collector First Grade, Rewari dated 01.07.2014, the District Collector, Rewari dated 31.03.2015 and the Commissioner, Gurugram Division, Gurugram dated 14.09.2017.

In brief, respondent No.5 (Gram Panchayat) filed a petition under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short, “the Act”) against respondent No.4 (Ram Singh) who was allegedly in unauthorised possession of the public passage within the *abadi* and *khasra* No.74, which also happens to be a public passage, vested in the Gram Panchayat. The said petition was partly allowed by the Assistant Collector First Grade, Rewari on 26.02.2007 finding respondent No.4 to be in unauthorised possession of *rasta saream* in khasra No.74 and ordered his eviction. The said order of the Assistant Collector First Grade dated 26.02.2007 was challenged both by respondents No.4 and 5 by way of separate appeals as respondent No.4 was aggrieved against the order of eviction in respect of *khasra*

No.74 and respondent No.5 was aggrieved against the order of Assistant Collector First Grade, Rewari, by which the ejectment order was not passed in respect of *rasta* falling within the *abadi*. The appeal filed by respondent No.4 was dismissed whereas the appeal filed by the Gram Panchayat was allowed and the matter was remanded back to the Assistant Collector First Grade, Rewari. After the remand, the Assistant Collector First Grade, Rewari allowed the ejectment application in respect of passage within the *abadi* vide order dated 12.12.2007. Against the said dated 12.12.2007, respondent No.4 filed appeal before the Collector, Rewari, which was dismissed on 28.08.2008. The revision filed against the said order by respondent No.4 before the Commissioner, Gurugram Division, Gurugram was also dismissed on 11.11.2010.

Respondent No.4 then filed the writ petition No.23291 of 2010 and challenged the orders dated 26.02.2007, 28.08.2007, 12.12.2007, 28.08.2008 and 11.11.2010. The said writ petition was allowed on 26.04.2012 and the matter was remanded back to the Assistant Collector First Grade, Rewari to decide the dispute regarding the path afresh after giving an opportunity of hearing to all the parties concerned. After the remand, the Assistant Collector First Grade, Rewari dismissed the application on 01.07.2014. The Gram Panchayat/respondent No.5 did not challenge the order dated 01.07.2014 by way of an appeal rather the appeal was filed by the petitioner, being a resident of the village, before the Collector and his appeal was dismissed vide order dated 31.03.2015 observing that the land in dispute is not in the ownership of the Gram Panchayat and the

application filed by the petitioner herein under Order 1 Rule 8 CPC to file the appeal in the representative capacity was also not found proper. Still aggrieved, the petitioner filed the statutory revision before the Commissioner, Gurugram Division, Gurugram, which was dismissed by order dated 14.09.2017.

The sum of substance of the aforesaid litigation is that the Gram Panchayat has failed to prove that respondent No.4 was in unauthorised possession either of the passage vested in the *abadi* or the passage which has been assigned khasra No.74. The efforts made by the present petitioner, being a resident of the village, in taking up the matter to the appellate and the revisional Court also failed.

Learned counsel for the petitioner has vehemently argued that this Court while allowing the writ petition on 26.04.2012 by directing the Assistant Collector First Grade, Rewari to pass the order afresh after giving opportunity of hearing to the parties but the material facts have been missed by the Assistant Collector First Grade, Rewari while dismissing the petition filed by respondent No.5 which holding that respondent No.5 is not the owner.

Learned counsel for the petitioner has been fair enough to admit that the arguments which are sought to be raised before this Court in the petition were not raised either before the Collector or the Commissioner in revision. However, he has submitted that the learned Courts below i.e. Collector and Commissioner have not taken the entire facts into consideration but after hearing the learned counsel for the petitioner, we are of the considered opinion that the Courts below have taken into consideration the facts brought on record by respondent

No.5, who was the petitioner before the Assistant Collector First Grade, Rewari and no further evidence has been brought by the petitioner himself for the purpose of doubting the evidence led by the Gram Panchayat to prove that it was owner of the property in dispute. No other point has been raised before us.

In view of the facts and circumstances of the case, there is hardly any reason for us to interfere in the well reasoned order passed by the learned Courts below. Therefore, the present petition is hereby dismissed in *limine*.

(RAKESH KUMAR JAIN)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

17.07.2019
Vinay

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