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

CWP No.18222 of 2019 (O&M)

Date of decision: September 05, 2019

Tulsi Ram

...Petitioner

Versus

The Gram Panchayat of Village Mardaheri and others

...Respondents

**Coram: Hon'ble Mr. Justice Rakesh Kumar Jain
Hon'ble Mr. Justice Arun Kumar Tyagi**

Present: Mr. S.D.Sharma, Senior Advocate, with
Mr. K.G.Chaudhary, Advocate, and
Mr. Ved Priya Malik, Advocate, for the petitioner.

Mr. M.L.Saini, Advocate,
for respondent no.2-caveator-Gram Panchayat.

Rakesh Kumar Jain, J.

The petitioner has assailed the validity of the order dated 13.06.2018 passed by respondent no.4 by which appeal filed by the petitioner has been dismissed.

In brief, the Collector, Patiala, vide his order dated 01.10.1996, dismissed four petitions including one of the petitioner herein filed under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961, in which the petitioner had sought a declaration that he is owner in possession of the land falling in Khewat/Khatauni No.114/268, Khasra No.20//21, 22 (8-0), 23(8-0), 24(8-0), 25/1 (1-12), 25/2 (2-0), 24//2 (8-0), 3 (8-0). 4 (8-0), 5 (7-15), 6 (8-0), 7 (8-0), 8 (8-0), 9 (7-12), total measuring 101 Kanals 19 Marlas, situated in the area of village Mardaheri. The appeal filed by the petitioner

against the order dated 01.10.1996 was allowed by the Commissioner on 05.06.1997. However, the writ petition bearing CWP No.15481 of 1997, filed by respondent no.2-Gram Panchayat against the order dated 05.06.1997, was allowed on 14.05.2003, the order dated 05.06.1997 of the Commissioner was set aside and the order dated 01.10.1996 of the Collector was restored. The petitioner challenged the order dated 14.05.2003 by way of an intra-court appeal bearing LPA No.391 of 2003, which was withdrawn on 01.03.2005 in order to file a review application before the learned Single Judge. The Review Application No.80 of 2005 filed by the petitioner was dismissed on 08.03.2006 and the petitioner again filed LPA No.86 of 2006 to challenge the order dated 14.05.2003 and dated 08.03.2006 of the learned Single Judge. The aforesaid LPA was disposed of by this Court on 06.08.2009, with the following observations:-

“8. We find that the effect of Section 3(2)(i) read with Section 2(g) of the 1961 Act has not been gone into and the effect of the said provision is that if the land owner shows that he was in possession as proprietor as on 26.01.1950 and the land was not used for common purposes, the same will not vest in the Panchayat. We also find that there is a dispute about reading of the documents, purporting to create lease in favour of the appellant. It is not clear whether any lease was created in favour of the appellant and whether the land was ever used for common purposes. Learned counsel for the Panchayat is not able to show any record to substantiate finding in the order of the learned Single Judge. In these circumstances, we are of the view that the matter should be decided afresh by the Appellate Authority.”

After remand, the Commissioner, vide his order dated 13.06.2018,

dismissed the appeal filed by the petitioner, *inter alia*, observing that the petitioner has failed to bring on record evidence regarding his individual cultivating possession as an owner before 26.01.1950.

Aggrieved against the order dated 13.06.2018, by which order dated 01.10.1996 passed by the Collector was upheld, the present petition has been filed,

During the course of hearing, learned senior counsel appearing on behalf of the petitioner has admitted that the petitioner is a *Gair Marausi* and is not a proprietor. This fact is recorded in the order dated 04.09.2019 passed by this Court. However, he has vehemently argued that the petitioner still has a right to be declared as an owner of the property in question because he has been recorded in possession of the property in question in the jamabandi for the year 1949-50.

We have heard learned counsel for the parties at length and are of the considered opinion that there is no merit in the submissions made by learned counsel for the petitioner because not only the revenue record shows that the petitioner is a *Gair Marausi* (the tenant at Will) but he himself suffered a statement on 04.09.2019 before this Court that the petitioner is a *Gair Marausi* and not a proprietor.

In this regard, besides the findings recorded by the Collector in his order dated 01.10.1996 and the Commissioner in his order dated 13.06.2018, the finding has also been recorded by the learned Single Judge in the order dated 14.05.2003 passed in CWP No.15481 of 1997, in which order dated 01.10.1996 passed by the Collector was upheld.

No other point has been raised.

In view of the aforesaid discussion, we do not find any merit in the present petition for the purpose of interference and hence, the same is hereby dismissed, though without any order as to costs.

(Rakesh Kumar Jain)
Judge

Sept. 05, 2019
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(Arun Kumar Tyagi)
Judge

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