

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1.

CWP-21552-2017 (O&M)
Date of Decision:07.11.2019

Jit Pal

. Petitioner

Vs.

The Director Rural Development and Panchayat Punjab and others

. Respondents

2.

CWP-21567-2017 (O&M)

Jagir Singh and others

. Petitioners

Vs.

The Director Rural Development and Panchayat Punjab and others

. Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN
HON'BLE MR.JUSTICE SUVIR SEHGAL

Present: - Mr.Surinder Sharma, Advocate,
for the petitioner.

Mr.Shreesh Gupta, Sr. DAG, Punjab.

Mr. Vivek Chauhan, Advocate,
for respondent No.3.

RAKESH KUMAR JAIN, J. (ORAL)

This order shall dispose of two petitions bearing
CWP No.21552 of 2017 titled as "***Jit Pal Vs. The Director Rural
Development and Panchayat Punjab and others***" [hereinafter referred to as
'the 1st petition'] and ***CWP No.21567 of 2017*** titled as "***Jagir Singh and
others Vs. The Director Rural Development and Panchayat Punjab and
others***" [hereinafter referred to as 'the 2nd petition'] as the issue involved in

both the petitions is identical. However, for the sake of convenience, the facts are being extracted from the 1st petition i.e. CWP No. 21552 of 2017.

In brief, the land in question was allotted by the Gram Panchayat to one Batna son of Khushia in the year 1973 being a landless worker. The petitioner has claimed that he has purchased the land in question from the said Batna son of Khushia on 29.11.2004. The Gram Panchayat filed a petition under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short 'the Act'), seeking ejectment of the petitioner on the ground that the land in dispute is shamlat deh and the petitioner is an unauthorized occupant. Both the Courts below, vide the impugned orders, decided against the petitioner and hence, the present petition has been filed to challenge the said orders.

Counsel for the petitioner has submitted that the petitioner is not in unauthorized possession but he is the owner of the property in question by virtue of the sale deed whereas counsel for the respondents has submitted that as per Rule 13-A of the Punjab Village Common Lands (Regulation) Rules, 1964 (for short 'the Rules'), the land in question could not have been sold by Batna son of Khushia to the petitioner.

We have heard both the counsel for the parties and perused the record with their able assistance.

In order to appreciate the rival contentions, it would be relevant to refer to Rule 13-A of the Rules, which is reproduced as under: -

“13-A. Giving of land to landless workers-
A Panchayat may, with the previous approval of the Government, give land in Shamlat Deh, free of cost, to a landless workers residing in the Sabha area for construction of a house for his residence;

Provided that the landless worker to whom such land is given, shall not be entitled to sell, exchange or mortgage it except mortgaging it for the purpose of raising loan to construct a house on it.”

Although, the petitioner has submitted that the land in question has been purchased for a valuable consideration but it has been categorically provided in Rule 13-A of the Rules that if the land is allotted free of cost to a landless worker, it cannot be sold at all but can be mortgaged for the purpose of raising loan for construction of house on it. The vendor of the petitioner was allotted the land by the Gram Panchayat free of cost being the landless worker, who had no right to transfer the property by way of sale to any other person, therefore, the sale effected by Batna son of Khushia in favour of the petitioner is hit by Rule 13-A of the Rules and cannot be given any effect for the purpose of holding the petitioner to be the owner and in authorized possession.

Thus, we do not find any merit in the present petitions and the same are hereby dismissed but at the same time, the petitioners may, if so advice, initiate appropriate proceedings against Batna son of Khushia, who has failed to transfer the ownership rights upon them of the property in question.

A photocopy of this order be placed on the file of connected case.

(RAKESH KUMAR JAIN)
JUDGE

(SUVIR SEHGAL)
JUDGE

07.11.2019
Vivek

Whether speaking /reasoned : *Yes/No*
Whether Reportable : *Yes/No*