

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

CWP No.3172 of 2016

Date of Decision:-08.04.2019

Smt. Ved Kumari.

.....Petitioner.

Versus

State of Haryana & Ors.

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE ARUM KUMAR TYAGI**

Present:- Mr. Gopal Sharma, Advocate for the Petitioner.

Mr. Rajiv K. Doon, Assistant Advocate General, Haryana.

Mr. Chanderhas Yadav, Advocate for Gram Panchayat.

JASWANT SINGH, J (ORAL).

Petitioner-Ved Kumari has preferred the instant writ petition, being aggrieved against the impugned orders dated 03.05.2011 (**P-4**) passed by Collector, Rewari, duly affirmed by Commissioner, Gurgaon vide his order dated 13.12.2012 (**P-5**) and Financial Commissioner, Haryana vide order dated 16.09.2015 (**P-6**), whereby claim petition of petitioner under Section 13-A of The Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as the 1961 Act) has been dismissed.

It is contended by learned Counsel for the petitioner that the Authorities below have dismissed the petitioner's suit for title primarily being influenced by an order of eviction passed against her brother and

some of the family members in summary proceedings, under Section 7 of the 1961 Act and, therefore, the entire approach of the Authorities below is contrary to law and principles of natural justice.

On the other hand learned Counsel for the Gram Panchayat has faintly tried to justify the orders passed by the Authorities below by arguing that the family members of petitioner had taken all possible pleas available under law to defend their possession. Still the Authorities had discarded all the objections raised therein and thereafter had passed the orders of eviction and thus, there was no illegality in the impugned orders passed by the Authorities below. However, the Counsel has not been able to negate the factual position that the orders passed by the Authorities are based solely upon the orders of eviction passed against the family members of the petitioner and there is no independent analysis of the evidence led on record.

After hearing Counsel for the parties and scrutinizing the paper book, we are of the opinion that the impugned orders are not sustainable under law and, therefore, liable to be set aside.

Admittedly, petitioner was not a party to the eviction proceedings initiated by Gram Panchayat against her family members. It is also not disputed that the proceedings under Section 7 of the 1961 Act are summary in nature, whereby the Authorities presume the entries reflected in the revenue record to be correct and pass orders relying upon the same. It is further not in dispute that in title suit, parties are at liberty to rebut the presumption regarding the correctness of revenue record by leading independent and cogent evidence and the Authority concerned is bound to frame issues and permit the parties to lead evidence on the said issues.

Once that is so, it is completely unjustified on the part of the Authorities below to rely upon the summary proceedings initiated under Section 7 of the 1961 Act and that also against family members of petitioner and dismiss the claim of petitioner, without even analyzing the independent evidence led by her. It is settled position of law that findings recorded in separate proceedings *inter se* different parties cannot be solely made the basis for dismissing the claim raised by a third party.

Consequently, the present writ petition is **allowed** and impugned orders dated 03.05.2011 (**P-4**) passed by Collector Rewari, order dated 13.12.2012 (**P-5**) passed by Commissioner, Gurgaon and order dated 16.09.2015 (**P-6**) passed by Financial Commissioner, Haryana are set aside and the matter is remanded back to the Collector, Rewari/or any other Officer competent conferred with such powers, to decide the matter afresh on the basis of evidence already adduced by the parties. The parties to appear before the Collector Rewari on 07.05.2019.

(JASWANT SINGH)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

April 08, 2019
Vinay

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