

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

CWP No.25428 of 2019 (O&M)

Date of decision: 02.03.2020

Sana Ram and others

...Petitioners

Versus

State of Haryana and others

...Respondents

**Coram: Hon'ble Mr. Justice Rakesh Kumar Jain
Hon'ble Mr. Justice Ashok Kumar Verma**

Present: Mr. Vikram Singh, Advocate, for the petitioners.

Mr. Samarth Sagar, Addl. Advocate General, Haryana.

Mr. Jai Parkash Sharma, Advocate
for respondent No.4-Gram Panchayat

Mr. V.B.Aggarwal, Advocate
for the caveator.

Rakesh Kumar Jain, J. (Oral)

The petitioners have challenged the orders dated 13.04.2011, 30.10.2013 and 27.09.2016 purported to have been passed by the authorities under the Punjab Village Common Lands (Regulation) Act, 1961 (for short "the Act"), on an application filed under Section 7 of the Act in respect of Khewat No.26, Khatauni No.148, rectangle No.5, Killa No.1 (3-2 gair mumkin abadi) 10 min (1-7) out of Khewat No.26 village Ghamur Kheri, Tehsil Thanesar District Kurukshetra.

At the time of preliminary hearing on 17.09.2019, this Court has passed the following order:-

"Learned counsel for the petitioners, inter alia, contends that two cases i.e. "Baljinder Singh Vs. Gurmit Singh and another"

and “Gram Panchayat Vs. Gurmit Singh” were filed under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 [for short ‘the Act’] and Sections 5 & 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 [for short ‘the Act of 1971’] before the Assistant Collector, 1st Grade, Thanesar in respect of land measuring 36 kanal 9 marla. The said petition was allowed by the AC 1st Grade on 13.4.2011 and the respondent therein (Gurmeet Singh) was ordered to be evicted. The said order was upheld by the Collector, Kurukshetra vide his order dated 30.10.2013 as the appeal filed by Gurmit Singh was dismissed and also by the Commissioner, Ambala, who dismissed the revision petition filed by Gurmit Singh. It is submitted that the petitioners are in occupation of land falling in khewat No.26, Khatauni No.148, Rectangle No.5, Killa No.1 (3-2 Gair Mumkin Abadi), 10 min (1-7) out of Khewat No.26 Village Ghamur Kheri, Tehsil Thanesar, District Kurukshetra, total measuring 4 kanal 9 marla which forms part of land measuring 36 kanal 9 marla. It is further submitted that when the possession of the petitioners on the aforesaid land on which they have constructed their pucca house was disturbed, they filed Civil Suit No.1913 of 2011 before the Civil Judge (JD), Kurukshetra which was decreed on 22.12.2015 restraining the Gram Panchayat from interfering in their possession otherwise in due course of law.

It is submitted that petitioners were in possession of the land in question but the Gram Panchayat started

threatening their possession on the ground that order of eviction has already been passed against them by the aforesaid revenue authorities. Therefore, the present petition has been filed. One Gurbachan Singh is on caveat. Counsel for the caveator has submitted that he has filed a petition for seeking a mandamus to implement the order of ejectment passed by the revenue authorities mentioned hereinabove and in the said petition notice of motion has been issued for 22.10.2019.

Learned counsel for the petitioners has argued that the impugned orders have been passed without impleading them as a party and therefore violates the fundamental principle of *audi alteram partem* i.e. no one should be condemned unheard.

Notice of motion for 22.10.2019.

Till then dispossession of the petitioners from the property in dispute shall remain stayed.

To be heard along with CWP-5144-2018. ”

After notice, counsel for the respondents have put in appearance and counsel for the State appearing on behalf of respondents No. 1 to 3 has submitted that the orders impugned herein have not been passed against the petitioners and thus the petitioners have no locus standi to challenge the aforesaid orders.

On the other hand, counsel for the petitioners has submitted that the petitioners have been forced to challenge the aforesaid orders because in the garb of these impugned orders, the respondents are likely to dispossess the petitioners from the land in dispute.

Counsel for the State has submitted that so far no order under Section 7 of the Act has been passed against the petitioners on the basis of which they can be dispossessed. Rather it is submitted that a direction may be issued to them to file an appropriate application in accordance with law to seek eviction if they are allegedly in unauthorized possession of the shamlat deh.

We have heard counsel for the parties and perused the record. Insofar as this petition is concerned, for the purpose of quashing of the impugned orders herein, is not maintainable because no such order has been passed against the petitioners but at the same time, the other prayer made by the petitioners is hereby allowed to the effect that the petitioners shall not be dispossessed otherwise than in accordance with law.

The petition is disposed of.

[RAKESH KUMAR JAIN]
JUDGE

[ASHOK KUMAR VERMA]
JUDGE

02.03.2020
hemlata

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