

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

110 (PROCEEDINGS THROUGH V.C.)

Civil Writ Petition No.5880 of 2021

Date of Decision: November 18th, 2021

Hoshiar Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Shashi Kumar Yadav, Advocate
for the petitioner.

Mr. Raman Sharma, Additional Advocate General, Haryana.

Mr. Mukesh Kumar Verma, Advocate
for respondent No.5.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this writ petition is to the order dated 17.02.2021 (Annexure P-20) passed by the Commissioner, Gurugram Division, Gurugram, order dated 04.12.2018 (Annexure P-16) passed by the Collector, District Rewari and order dated 14.06.2018 (Annexure P-14) passed by the Assistant Collector 1st Grade, Kosli, in case No.1142/VCL vide which eviction of petitioner from part of Khewat No.272, Khatoni No.386, Rectangle No.42 and Killa No.27/2 (2-6) total measuring 2 kanals 6 marlas of Village Bohatwas Bhondu, Tehsil Kosli, District Rewari, Haryana, has been ordered.

2. The basic contention which has been raised by learned counsel for the petitioner is that while passing the impugned orders, proviso to Section 7 of The Punjab Village Common Lands (Regulation) Act, 1961, has not been taken into consideration, which mandates that in case in a petition preferred under Section 7 of the above said Act, plea with regard to the ownership of the land

has been raised in the stand, which is taken before the authorities, the same need to be first decided and thereafter proceedings for Section 7 have to be pursued. He accordingly contends that the said mode as prescribed under the statute having not been followed, proceedings as provided under Section 7 for eviction alone cannot sustain.

3. Upon notice having been issued by this Court, affidavit dated 20.09.2021 of the Block Development and Panchayat Officer, Jatusana, District Rewari, on behalf of respondents No.1 to 5 has been filed, where in para 2, the stand which has been taken is as follows:-

“That the Gram Panchayat then filed an application under section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (in short The Act, 1961) before the Assistant Collector 1st Grade, Kosli, Rewari on 15-01-2015. At the time of filing written statement to the said application the petitioner neither took plea of his ownership of the disputed land nor he presented a single document pertaining to his ownership over the disputed land. Instead of this the documents which were presented by the petitioner along with the said written statement themselves showing the Gram Panchayat as the owner of the disputed land. The Assistant Collector 1st Grade decided the application on merit in favour of the Gram Panchayat and passed the ejectment order against petitioner”.

4. Learned counsel for the petitioner has referred to the reply which has been filed by the petitioner to the application filed under Section 7 of The Punjab Village Common Lands (Regulation) Act, 1961, by the Gram Panchayat against the petitioner.

A perusal of para 2 of the reply leaves no manner of doubt that a detailed claim with regard to the ownership of the said land, which is the subject matter of the eviction petition, has been taken and even the

photocopies of the *jamabandis* have been appended along with the application.

5. This being the factual position, the contention as has been projected in the affidavit, which has been filed in response to the writ petition being contrary to the pleadings and the record, cannot be accepted on behalf of the respondents.

6. In view of the above, the present writ petition is allowed.

7. Impugned order dated 17.02.2021 (Annexure P-20) passed by the Commissioner, Gurugram Division, Gurugram, order dated 04.12.2018 (Annexure P-16) passed by the Collector, District Rewari and order dated 14.06.2018 (Annexure P-14) passed by the Assistant Collector 1st Grade, Kosli, in case No.1142/VCL, are hereby set aside.

8. The matter is remanded back to the Assistant Collector 1st Grade, Kosli, for fresh decision keeping in view the provisions of the statute as provided for in Section 7 of The Punjab Village Common Lands (Regulation) Act, 1961. The question of title shall be first adjudicated upon and after the settlement thereof, in case the cause of action still survives for the Gram Panchayat to proceed with the matter, Section 7 proceedings shall be proceeded with.

9. Parties are directed to appear before the Assistant Collector 1st Grade, Kosli, on **20.12.2021 at 10:00 AM.**

(AUGUSTINE GEORGE MASIH)
JUDGE

November 18th, 2021
Puneet

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No