

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 8201 of 2021

Date of decision: 09.04.2021

Moti Ram

.....Petitioner

V/s.

State of Haryana and others

.....Respondents

CORAM: - HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Rahul Deswal, Advocate, for the petitioner.

(Through Video Conferencing)

Jasgurpreet Singh Puri, J.

The present writ petition has been filed under Article 226/227 of the Constitution of India with a prayer for issuance of a writ in the nature of certiorari for quashing the impugned order dated 28.01.2021 (**Annexure P-7**) passed by the learned Commissioner, Hisar Division, Hisar, order dated 10.03.2017 (**Annexure P-5**) passed by the learned Collector, Sirsa and order dated 31.03.2015 (**Annexure P-3**) passed by the learned AC Ist Grade, Ellenabad, whereby eviction order has been passed against the petitioner along with penalty of ₹5,000/- per year per acre from the date of the institution of the suit.

The learned counsel for the petitioner has submitted that the petitioner is in possession of the property for more than 40 years, interlock streets have been constructed in the disputed houses and electricity and water connections have also been given. He has submitted that he is living in the house and the Panchayat has also received the Chulha Tax from the

petitioner and, therefore, he cannot be evicted from the house. He further submitted that the learned authorities below have passed the orders erroneously as the petitioner could not have been evicted on the ground of his long possession of the house and that he was not in unauthorised possession of the land in question. He further submitted that nobody had raised any objection when the house was being constructed and there are other houses also being constructed on the land. He further submitted that in view of his long possession the Panchayat land can be sold to the petitioner by taking some price of the said land and, therefore his eviction is illegal.

We have heard the learned counsel for the petitioner.

An application under Section 7(1)(2) of the Punjab Village Common Lands Regulation Act, 1961 was filed by the Gram Panchayat, Dhudianwali, Tehsil Rania, District Sirsa for evicting the petitioner from the land measuring Khasra No.262 area 0 Kanal 7 Marla on the ground that the land belongs to Gram Panchayat and it was reserved for the toilets and, therefore, the petitioner was liable to be evicted from the land. The Sub Divisional Officer exercising the powers of Assistant Collector Ist Grade, Ellenabad came to the conclusion and recorded finding of fact that as per the revenue record, the owner of the property in dispute is Gram Panchayat and the same is reserved for toilets. As per the demarcation report, the petitioner was having illegal possession over the same. The Assistant Collector also relied upon the judgment passed by the Hon'ble Supreme Court to the effect that the Panchayat cannot sell the panchayat land to the private person after taking money and, therefore, the order of eviction was passed. The petitioner filed appeal before the District Collector, Sirsa who

also recorded the finding that as per the demarcation report dated 21.08.2011, the Gram Panchayat is owner of the property in dispute and that the petitioner is having illegal possession of the property. The property in dispute is beyond Lal Lakir and as per the Jamabandi for the year 2011-12, the property in dispute is reserved for toilets and in this way, the property in dispute is for public purposes and, therefore, dismissed the appeal of the petitioner.

The petitioner thereafter filed the revision petition before the Commissioner, Hisar Division, Hisar and the same was also dismissed

The Hon'ble Supreme Court in '*Jagpal Singh V/s. State of Punjab*' [2011(11) SCC 396] while dealing with the encroachment of panchayat land which was reserved for pond had issued directions to all the State Governments in the country that they shall prepare schemes for eviction of the illegal/unauthorised occupants of Gram Sabha/Gram Panchayat/Poramboke/Shamlat land and these must be restored to Gram Sabha/Gram Panchayat for the common use of villagers of the village and for that purpose the Chief Secretaries of all State Governments/Union Territories in India were directed to do the needful, taking the help of other senior officers of the Governments. Furthermore, long duration of such illegal occupation or huge expenditure in making constructions thereon or political connections must not be treated as a justification for condoning the illegal act or for regularizing the illegal possession and regularization should only be permitted in exceptional cases e.g. where lease has been granted under some Government notification to landless labourers or members of Scheduled Castes/Scheduled Tribes, or where there is already

a school, dispensary or other public utility on the land.

In the present case, the land belongs to Panchayat and has been reserved for toilets which is a common purpose. There is nothing on record to show as to how the petitioner came into possession of the said land and why the Gram Panahcyat had not objected at the time of the construction of the house. Mere long possession of a Panahcyat land cannot vest a right in the petitioner to continue the possession. Furthermore, mere long possession of the land belonging to Gram Panahcyat cannot enable the petitioner to seek regularisation as the same can only be permitted for very limited purpose as observed by the Hon'ble Supreme Court in Jagpal Singh's case (supra).

There is nothing on record to show that the petitioner came into possession under some decision of the Government or any policy. All the authorities below have recorded a finding of fact on the basis of demarcation report that the land in dispute is owned by Gram Panchayat of the village and the land was reserved for toilets.

This Court does not find any infirmity in the orders passed by the authorities below and therefore, the present case is not a fit case to invoke jurisdiction under Article 226 of the Constitution of India.

Consequently, the present petition is hereby dismissed.

(RAJAN GUPTA)
JUDGE

(JASGURPREET SINGH PURI)
JUDGE

09.04.2021

rakesh

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