

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

CWP- 8155-2021

Date of decision : 20.04.2021

KALU RAM

...Petitioner

Versus

STATE OF HARYANA AND ORS.

...Respondents

**CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN
HON'BLE MR. JUSTICE VIVEK PURI**

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

Mr. Raman Kumar Sharma, Additional Advocate General,
Haryana for respondent Nos. 1 to 4.

JITENDRA CHAUHAN, J. (Oral)

The matter has been taken up through video-conferencing in the light of the pandemic COVID-19 situation and as per instructions.

The present civil writ petition has been filed under Articles 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-6) passed by the learned Commissioner, Hisar Division, Hisar-respondent No. 2, impugned order dated 10.03.2017 (Annexure P-4) passed by the learned Collector, Sirsa-respondent No. 3 and impugned order dated 31.03.2015 (Annexure P-2) passed by learned AC Ist Grade, Ellenabad-respondent No. 4, whereby dispossession order has been passed against the petitioner.

Learned counsel for the petitioner states that the petitioner is in possession of the house comprised in Khasra No. 261, measuring 19 Marla for more than 50 years, interlock streets have been constructed for the disputed house and electricity and water connections have also been provided by the authorities. He occupying the house and has been paying chulha tax to the Panchayat and as such, he cannot be evicted from the house in question. Learned authorities below have passed the orders erroneously as the petitioner is not in unauthorised possession of the land in question. Nobody had raised any objection when the house was being constructed and houses in the vicinity have also come up without any resistance from the Panchayat or private persons. In view of long possession of the petitioner, the Panchayat land can be sold to him by taking some price of the said land and, therefore his eviction is illegal.

Heard.

Sub Divisional Officer exercising the powers of Assistant Collector Ist Grade, Ellenabad 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 construction of toilets. As per the demarcation report dated 21.08.2011, the petitioner was having illegal possession over the same. The Assistant Collector also relied upon order dated 28.01.2011 passed by Hon'ble the Supreme Court in ***Jagpal Singh and others V/s. State of Punjab and others 2011(11) SCC 396*** to the effect that the Panchayat cannot sell the panchayat land to a 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 in 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 revision petition filed by the petitioner before the Commissioner, Hisar Division, Hisar also met with the same fate.

Hon'ble the Supreme Court in *Jagpal Singh's (Supra)* 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 the villagers 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 instant case, categorical findings have come on record that the land belongs to Panchayat and stands reserved for constructions of 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 Panchayat had not objected at the time of the construction of the house. Mere long possession of a Panchayat land cannot vest a right in the petitioner to continue the possession. Regularization of the same can only be permitted for very limited purpose as observed by Hon'ble the 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 competent authority or under any policy launched by the State. 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 construction of toilets.

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

Consequently, the present petition is hereby dismissed.

(JITENDRA CHAUHAN)
JUDGE

(VIVEK PURI)
JUDGE

20.04.2021

jyoti-II

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No