

(Proceedings through V.C.)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CWP No. 10414 of 2021 (O&M)

Date of Decision: 06.09.2021

Babu Lal and others

...Petitioners

Versus

State of Haryana and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASHI

HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Lalit Kumar Yadav, Advocate for the petitioners

Mr.Raman Kumar Sharma, Addl.A.G., Haryana

**ASHOK KUMAR VERMA, J.**

1. This writ petition has been filed by the petitioners under Article 226/227 of the Constitution of India seeking Writ of Certiorari for setting aside the order dated 17.03.2021 (Annexure P-4) passed by the Commissioner, Rohtak, whereby revision against the orders dated 20.02.2020 and 14.02.2019 passed by the Collector, Bhiwani and Assistant Collector, 1<sup>st</sup> Grade, Bhiwani respectively ordering removal of illegal and unauthorised possessions over shamlat land of Gram Panchayat by the petitioners, has been dismissed. A further prayer has been made for staying the execution and operation of the aforesaid orders.

2. The brief facts of the case are that it is a case of the petitioners that the predecessor-in-interest of the petitioners were got settled at village Jui Kalan, Tehsil and District Bhiwani to clean the wastage of the village in the year 1967 and villagers provided some land to them whereupon they started residing by making *Kachi* and *Pucci* huts and later on they made *pucca* construction. They took electricity and water connections to their houses. The Gram Panchayat Jui Kalan moved an application before the District Development and Panchayat Officer and Assistant Collector 1<sup>st</sup> Class, Bhiwani, under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short 'the Act') for removal of encroachment from the petitioners from the land measuring 1 Kanal 13 Marlas situated at village Jui Kalan, Tehsil and District Bhiwani and for restoring the possession thereof to the Gram Panchayat. The Assistant Collector ordered removal of encroachments from the aforesaid panchayat land and to pay a fine of Rs. 5,000/- per head to the Gram Panchayat, vide order dated 14.02.2019 (Annexure P-1). The petitioners filed appeal against the aforesaid order dated 14.02.2019 before Collector, Bhiwani, which was also dismissed vide order dated 20.02.2020 (Annexure P-2). Revision filed against the aforesaid orders before Commissioner, Rohtak Division, Rohtak was also dismissed vide order dated 17.03.2021 (Annexure P-4). Thus, the petitioners have filed this writ petition seeking quashment of the aforesaid orders.

3. Learned counsel for the petitioners, *inter alia*, submits that the impugned orders passed by the revenue courts are illegal and improper. The petitioners being residents of village, constructed their

*Pucca* houses on small chunk of land which was falling within *lal dora* of the village. Although that land was vested in Gram Panchayat but the petitioners are in continuous possession of the said land for the last so many years. They also took electricity and water connection to their houses.

4. Learned State counsel has opposed the submissions made by learned counsel for the petitioners by stating that the impugned order is self-speaking and a detailed finding has been given. As per ratio of judgment in **Jagpal Singh and others vs. State of Punjab and others**, 2011 Vol. 11 SCC 396, the petitioners are trespassers as they have occupied the land belonging to Gram Panchayat.

5. We have considered the submissions made by the learned counsel for the parties and gone through the paper-book.

6. The menace of encroachments on public properties are creeping up day-by-day and creating obstructions to the planned development of the nation. The Hon'ble Supreme Court took serious note of the fact in the case of *Jagpal Singh (supra)* that in large parts of India, village common land had been grabbed by unscrupulous persons using muscle power, money power or political clout to the extent that in many States such land existed only on paper. It deplored any attempt to regularize illegal construction on this land. It was held that even if the encroachers had built houses on the land, they must be ordered to remove their construction and hand over possession of the land to the Gram Panchayat. It was stressed that Gram Sabha/ Gram Panchayat land must be kept for the common use of the residents of the village. In this view of the matter, the Hon'ble Supreme Court observed as under:-

“13. We find no merit in this appeal. The appellants herein were trespassers who illegally encroached on to the Gram Panchayat land by using muscle power/money power and in collusion with the officials and even with the Gram Panchayat. We are of the opinion that such kind of blatant illegalities must not be condoned. Even if the appellants have built houses on the land in question they must be ordered to remove their constructions, and possession of the land in question must be handed back to the Gram Panchayat. Regularising such illegalities must not be permitted because it is Gram Sabha land which must be kept for the common use of the villagers of the village.

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23. Before parting with this case we give directions to all the State Governments in the country that they should prepare schemes for eviction of illegal/unauthorised occupants of the Gram Sabha/Gram Panchayat/poramboke/shamlat land and these must be restored to the Gram Sabha/Gram Panchayat for the common use of villagers of the village. For this purpose the Chief Secretaries of all State Governments/Union Territories in India are directed to do the needful, taking the help of other senior officers of the Governments. The said scheme should provide for the speedy eviction of such illegal occupant, after giving him a show-cause notice and a brief hearing. 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 this illegal act or for regularising the illegal possession. Regularisation should only be permitted in exceptional cases e.g. where lease has been granted under some government notification to landless labourers or members of the Scheduled Castes/Scheduled Tribes, or where there is already a school, dispensary or other public utility on the land.”

The aforesaid propositions have been reiterated by Hon’ble Supreme Court in **Joginder and another Vs. State of Haryana and others**, 2021 (2) R.C.R (Civil) 109.

7. We are of the considered opinion that the the aforesaid ratio of law laid down by the Supreme Court is fully applicable to this case. In this case, the Assistant Collector, Bhiwani, passed a detailed and speaking order dated 14.02.2019 (Annexure P-1). Before passing the said order, a spot inspection of the disputed land was conducted. The petitioners were found to be in illegal possession of shamlat land of Gram Panchayat within revenue estate of village Jui Kalan. Assistant Collector came to the conclusion that great loss has been suffered by the Gram Panchayat. Accordingly, he ordered removal of encroachments from the said panchayat land. Even Collector, Bhiwani dismissed the appeal of the petitioners by passing a detailed and speaking order dated 20.02.2020 (Annexure P-2) wherein he recorded that full opportunity has been provided to the petitioners and maintained the removal of encroachments from the petitioners. Further, the revision filed against the aforesaid orders has also been dismissed vide a detailed order dated 17.03.2021 (Annexure P-4) passed by the Commissioner, Rohtak Division, Rohtak. From the perusal of the revenue record, it is clear that as per Jamabandi of Jui Kalan for the year 2008-09, Khasra No. 151, 152 and 153, total area measuring 8 Kanals, 13 Marlas, Gair Munkin, Panchayat Ghar, Dharamshala, Premises of Well in the column of ownership Gram Panchayat is recorded and the land in question has been demarcated, according to which the petitioners have been found to be trespassers being in illegal occupation of the land in question.

8. In this view of the matter, we find no ground to interfere with the findings recorded by the revenue courts below. There is no

illegality and impropriety in the impugned orders. Accordingly, the writ petition is dismissed.

(ASHOK KUMAR VERMA) (AUGUSTINE GEORGE MASIH)  
JUDGE JUDGE

06.09.2021  
MFK

Whether speaking/reasoned Yes

Whether Reportable Yes