

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

122+222

CM-1174-CWP-2021 in/and
CWP-9804-2020 (O&M)
Date of decision: 28.01.2021

Paramjit Kaur @ Bimaljeet Kaur

.....Petitioner

versus

State of Punjab and others

....Respondents

CORAM: Hon'ble Mr. Justice Girish Agnihotri

Present: Mr. Sumeet Mahajan, Senior Advocate with
Mr. Amit Kohar, Advocate and
Mr. Saksham Mahajan, Advocate
for the petitioner.

Ms. Sunint Kaur, Assistant AG, Punjab.

Mr. Sandeep Sharma, Advocate for respondent No.3.

GIRISH AGNIHOTRI, J. (Oral)

The matter has been taken up through video-conferencing on account of restrictions due to outbreak of pandemic COVID-19.

Petitioner-Paramjit Kaur @ Bimaljeet Kaur, stated to be aged 61 years, has filed the present petition *inter alia* with a prayer for issuing directions to the respondent to quash Rapat/Report No.1399 dated 10.06.2020 (Annexure P-45), by which respondent No.4 has made an entry in Khasra Girdawari in respect of land in question (owned by the petitioner), showing respondent No.5 as “*Gair Marusi*” (unauthorized occupant)., along with further prayers as mentioned in the present writ petition.

Learned Senior counsel representing the petitioner makes

reference to para 54 of the writ petition to submit that under the provisions of Punjab Land Revenue Act 1887, there is a detailed procedure and circumstances mentioned under which change in girdawari could be sought. He then makes reference to the application dated 13.07.2006 (Annexure P-11) (with date of institution as 06.10.2008-Case No.9/R-1). This application has been decided vide order dated 20.04.2018 (Annexure P-46), by Assistant Collector, Ist Grade (Tehsildar), Bathinda. Vide order dated 20.04.2018, following directions have been issued:-

“4. Today the applicant was heard. After hearing the applicant the record on file was perused. In this case the site was inspected on 28.11.2017. On the site persons present had verified that the possession and cultivation is of applicant party. Therefore keeping in view the spot inspection the girdawri of land measuring 25 bigha 01 biswa Khewat No.2506 Khatauni No.11715 Khasra number 5711/4119(14-17), 5712/4119(4-18), 5713/4119(4-19), 5714/4119(0-7) revenue estate Patti Jhuti, Bhatinda is corrected in the name of applicant Gurpal Singh s/o Ganda Singh s/o Hari Singh resident of B-10, Civil Lines, Bhatinda with effect from harri crop 2018 as gair marusi.

5. Order is pronounced. The file be consigned to record room after paging and indexing.”

Dated 20.04.2018

Sd/-
Assistant Collector 1st Grade (Tehsildar)
Bathinda

Records of the case show that vide order dated 14.07.2020, passed by this Court, notice of motion was issued and notice regarding stay was also issued. Thereafter, on 22.09.2020, following order was passed:-

“Learned counsel for the respondents seek time to file their respective written statements.

Adjourned to 26.11.2020.

Since, notice regarding stay was issued, I deem it appropriate to stay operation of report No.1399 dated 10.06.2020 (Annexure P-45), till further orders.”

On the resumed hearing of the case, learned counsel for respondent No.5 submits that vide CM-12266-CWP-2020, prayer has been made to place the reply of respondent No.5 on record. He then makes a submission that the petitioner, in Paras No.49 and 53 of the petition, has herself admitted that there is a remedy to challenge the said order by way of appeal before the Collector, Bathinda.

In view of the peculiar circumstances as noticed above, this Court deems it appropriate to dispose of the present writ petition with the following directions:-

“(i)The petitioner, if files an appeal before the Collector, within a period of three weeks from today, the same shall be entertained by the Appellate Authority on merits.

In view of the peculiar facts and circumstances, this Court further direct that the issue of limitation in filing of the appeal, shall not come in the way of the Appellate Authority for deciding the matter on merits, because the impugned order (Annexure P-45) is dated 10.06.2020 and the petitioner had filed the present writ petition on 05.07.2020 before this Court.

(ii) Till the decision on the application intended to be filed by the petitioners for interim stay, before the Appellate Authority, the interim order passed by this Court on 22.09.2020, shall continue.

Accepting the oral request of learned senior counsel,

considering the controversy involved in the present case, it is further directed that the decision of the Collector on the interim stay application, shall be kept in abeyance and be not implemented for a period of two weeks.

(iii) It is further directed that the appeal so preferred, shall be decided as expeditiously as possible, maximum within a period of four months from the date of filing of the appeal.”

With the above observations, the present Writ Petition along with subsequent applications, stands disposed of.

(GIRISH AGNIHOTRI)
JUDGE

28.01.2021
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Whether speaking/ reasoned:	Yes/No
Whether Reportable:	Yes/No