

(Proceedings through V.C.)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 17336 of 2021
Date of Decision: 06.09.2021

Balwinder Singh

...Petitioner

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Sunil Agnihotri, Advocate
for the petitioner.

ASHOK KUMAR VERMA, J.

1. This writ petition has been filed challenging the order dated 31.10.2014 (Annexure P-1) passed by District Development and Panchayat Officer-cum-Collector, Hoshiarpur and the order dated 19.02.2021 (Annexure P-2) passed by Director, Rural Development and Panchayat (exercising the Power of Commissioner), SAS Nagar, Mohali, Punjab and to stay the operation of impugned orders.

2. Brief facts leading to the filing of this petition are that Gram Panchayat, Bhater, filed a case before the aforesaid Collector

against illegal encroachment by the petitioner regarding the disputed land- Khasra No. 1395(27K-17M), Khewat No. 391 Khatoni No. 429 as per Jamabandi 2006-07, situated in village Bhated H.B. No. 608. After hearing the Gram Panchayat and considering the revenue record and the demarcation report A-11 made by the Patwari, Revenue Department, the Collector came to the conclusion that there is illegal encroachment on the land in question and as such he passed eviction order dated 31.10.2014 to vacate the land measuring 3K-11M within 30 days and directed to handover the vacant possession to the Panchayat, out of the land measuring 27K-17M Khasra No. 1395, Khewat No. 1395, Khatoni No. 429, as per Jamabandi 2006-07, Aks Sajra and site plan Exbt. A-2 to Exbt. A-04. Aggrieved against the aforesaid order the petitioner filed appeal before the Director, which was also dismissed vide order dated 19.02.2021 (Annexure P-2). Thus, the present petition has been filed challenging the aforesaid orders.

3. Learned counsel for the petitioner, *inter alia*, submits that the impugned orders are based upon conjectures and surmises and are perverse to the evidence available on record. He laid stress that the petitioner never raised any construction in Khasra No. 1395. It is just a playground for playing the students of school as well as ITI College. The building of Desh Bhagat Technical College is in Khasra No. 1384 where college is running, this property is owned by the petitioner and his wife. Learned counsel further submits that in Khasra No. 1395 there was a Khad but due to efforts of petitioner the same was converted into a playground for the welfare of the children of the

village but incidentally Khasra No. 1395 is adjoining to the college building. Learned counsel submits that the action by the Gram Panchayat against the petitioner is counter-blast to the civil suit filed by him against the Gram Panchayat. Learned counsel also submits that the revenue authorities have not taken into consideration these facts. As such the impugned orders are liable to be set aside.

4. We have anxiously considered the submissions of the learned counsel for the petitioner and gone through the paper-book.

5. We find no substance in the submissions of the learned counsel for the petitioner. The submissions and the assertions of the petitioner are bald, baseless and imaginary and have no leg to stand. There is no evidence on record to show that the disputed land belongs to the petitioner. On the other hand, the Collector examined the issue thoroughly in its order dated 31.10.2014. The land in dispute was got demarcated by the Patwari who reported that the petitioner had encroached the land in question which is part and parcel of the property of Gram Panchayat. The Collector appreciated the evidence such as Jamabandi for the year 2006-07, Fard Jamabandi, Aks Sajra and site plan which were exhibited by the Gram Panchayat as Ex. A-2 to Ex. A-4. After appreciating the evidence the Collector arrived at the conclusion that as per Fard Jamabandi 2007, in the column of ownership Gram Panchayat Deh is mentioned of land 27K-17M, Khasra No. 1395 (27K-17M), due to gair mumkin khad entry, the petitioner was found to have no concern with the land in dispute. In view of the demarcation report dated 06.08.2008, Exb. A-11, there is an illegal encroachment in the above said Khasra No. of land 3K-

11M. Accordingly, the Collector rightly ordered eviction of the petitioner from the land in question vide impugned order dated 31.10.2014, which was also upheld by the Commissioner vide order dated 19.02.2021 passed in the appeal filed by the petitioner. There is nothing on record to show that the petitioner is owner of the land in dispute. In the absence of any cogent evidence and material on record in favour of the petitioner, we find no reason to interfere with the findings of fact recorded by the revenue authorities in their comprehensive and speaking orders.

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 and others vs. State of Punjab and others**, 2011 Vol. 11 SCC 396 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 aforesaid ratio of law laid down by the Supreme Court is fully applicable to the case of the petitioner.

8. In view of the above, we find no merit in the present petition, which is accordingly dismissed.

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

06.09.2021
MFK

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>