

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

**CWP No. 17706 of 2021
Date of Decision: 09.09.2021**

Gurmukh 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. Sahil Soi, Advocate for the petitioner.

ASHOK KUMAR VERMA, J.

1. This writ petition has been filed for quashing of the order dated 25.06.2021 (Annexure P-5) passed by the Director, Rural Development and Panchayat Department (Exercising the Power of Commissioner), SAS Nagar Mohali, Punjab at Mohali and the order dated 17.10.2017 (Annexure P-3) passed by the District Development and Panchayat Officer-cum-Collector, Jalandhar.

2. Brief facts leading to the filing of this petition are that Gram Panchayat, Maheru filed a case before the District Development and Panchayat Officer-cum-Collector, Jalandhar against the petitioner and six others alleging that the petitioner has illegally encroached the Gram Panchayat land (26 Kanal), Khewat No.285, Khatauni No.359, Khasra No.19//16/4 (0-14), 17/3 (2-0), 22/2 (3-13), 23 (7-4), 24/1 (6-4), 22//3/1 (5-

19), 4/1 (0-10) as per Jamabandi 2005-06, Hadbast No.55, situated in Village Maheru, Tehsil Nakodar, District Jalandhar. The land in dispute is common property under the control of Gram Panchayat, Maheru and the income from the said land was being used for the development and progress of the village. The petitioner got the land in dispute on lease in the name of his relatives and did not give back the same to the Gram Panchayat, Maheru. After hearing the Gram Panchayat and considering the revenue record, the Collector came to the conclusion that there is illegal encroachment on the land in question and as such he passed eviction order dated 17.10.2017 (Annexure P-3) directing the petitioner to immediately vacate the land in dispute and handover the vacant possession to the Gram Panchayat. Aggrieved against the aforesaid order the petitioner filed appeal before the Director, Rural Development and Panchayats, Punjab at Mohali which was also dismissed vide order dated 25.06.2021 (Annexure P-5). 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. Neither the land in dispute was used for common purpose nor its income was ever used for development of village and it was never leased to the petitioner or his relatives as alleged by the Gram Panchayat. Prior to 1964 and during consolidation, the land in dispute was shown as 'Shamlat Patti Udhawal' in the ownership column and later on vide mutation No.2250, the said entry was changed wrongly from 'Shamlat Patti Udhawal' to 'Panchayat Deh' on the basis of a letter dated 24.06.1964. As per law no mutation can be sanctioned on the basis of a letter or notification. The said entry is wrong, illegal and void which was changed

without hearing anyone. The land in dispute which was earlier in the name of private persons had been transferred in the name of the petitioner and other performas respondents vide sale deed 18.05.1979 and the land in dispute does not come under the definition of 'Shamlat Deh'. Learned counsel also submits that the revenue authorities have not taken into consideration these facts. Therefore, the impugned orders being illegal may be quashed.

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 17.10.2017. After appreciating the evidence the Collector arrived at the conclusion that as per Jamabandi for the year 2005-06, in the column of ownership 'Panchayat Deh' is mentioned, the petitioner was in illegal possession of the land in dispute and the same has remained in control of Gram Panchayat. The Collector rightly ordered eviction of the petitioner from the land in dispute vide impugned order dated 17.10.2017, which was also upheld by the Commissioner vide impugned order dated 25.06.2021 passed in the appeal filed by the petitioner observing that 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)
JUDGE

(AUGUSTINE GEORGE MASIH)
JUDGE

09.09.2021

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Whether speaking/reasoned Yes

Whether Reportable Yes