

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-20391-2021

Date of Decision: 27.10.2021

Devender Singh and others

....Petitioners

VS

State of Haryana others

....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Abhimanyu Singh, Advocate
for the petitioners

SUDHIR MITTAL, J. (Oral)

The petitioners have filed this writ petition challenging orders dated 24.09.2012 (Annexure P-5), 04.09.2014 (Annexure P-6) and 01.02.2021 (Annexure P-7) whereby their appeals and revision against the order passed by the Assistant Collector 2nd Grade ordering correction in girdawari have been dismissed.

According to the petitioners, the land in dispute is in their possession as '*Gair Morusi*' and the revenue record i.e. jamabandi corroborates this fact. They have been in possession since 1982 and have accordingly acquired occupancy rights. Thus, the authorities below were in error in ordering correction of *hasra girdawari*. Further, the land being non-agricultural in nature, the revenue authorities had no jurisdiction to correct the girdawari.

Learned counsel for the petitioners has submitted in addition that the petitioners were not served before the Collector. This objection was squarely raised but has been avoided by the Commissioner as well as the Financial Commissioner. Thus, the impugned orders be set aside and the matter be remanded for fresh decision.

A party can not claim occupancy rights without there being an order passed by the competent authority. The revenue record shows the petitioners as '*Gair Morusi*'. This term does not imply that the petitioners were in infact tenants as it is common knowledge that the said term is used by the revenue authorities in the absence of any other better description. The land in dispute is the subject matter of revenue record and even though it may not be agricultural in nature as on date, the revenue authorities would still have the jurisdiction to correct the *khasra girdawari* in case such an application is filed. Such an application was filed by respondent No. 7 and a finding of fact has been returned that the land has been enclosed by it by erecting a boundary wall. This finding has not been shown as erroneous in any manner. Hence, possession of respondent No. 7 has been established and *khasra girdawari* has to be corrected to reflect the possession as exists on ground.

The argument regarding non service before the Collector also deserves to be rejected. Although order of the Commissioner shows that such an objection had been taken, there is no such reflection in the order of the Financial Commissioner and obviously the petitioners had waived the objection. Thus, they can not be permitted to raise the same in the writ petition.

For the aforementioned reasons, the writ petition has no merit and is dismissed.

27.10.2021

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(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No