

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

112 (PROCEEDINGS THROUGH V.C.)

Civil Writ Petition No.25177 of 2021
Date of Decision: December 16th, 2021

Rajinder Kaur and others

...Petitioners

Versus

The Director, Rural Development and Panchayat Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Anil Kumar Ahluwalia, Advocate
for the petitioners.

AUGUSTINE GEORGE MASIH, J.

Petitioners, who claim themselves to be the legal representatives of late Sukhdev Singh, have approached this Court praying for quashing of the order dated 16.09.2019 (Annexure P-11) passed by the Director, Rural Development and Panchayat Department, Punjab, which has been passed in pursuance to the directions issued by this Court in *CWP No.2425 of 2019* titled as *Sukhdev Singh Versus The Director, Rural Development and Panchayat, Punjab and others*, wherein direction was issued by this Court to consider and decide the representations submitted by the petitioner therein within a period of six weeks of the receipt of the certified copy of the order by passing a speaking order. Writ of mandamus has also been sought for issuance of a direction for deciding the title of the disputed property in accordance with law.

2. Petitioners assert that Gram Panchayat of Village Bhankharpur-respondent No.4 allotted Plot No.99 in the name of Chanan Singh alias Chanan Ram father of Sukhdev Singh by passing a resolution. After death of

Chanan Singh, Sukhdev Singh came in possession of the said plot, who along with his brother Rupinder Singh continue to be in possession. After the death of Sukhdev Singh, it is the petitioners along with Rupinder Singh, who are in possession of the said property plot.

3. Petitioners assert that when the order passed by this Court was not complied with, a contempt petition was preferred, which led to the passing of the impugned order dated 16.09.2019 by the Director, Rural Development and Panchayat Department, Punjab, which the petitioners contend is against the spirit of the provisions of the Punjab Village Common Lands (Regulation) Act, 1961 as the grievance of the petitioners was that Balwinder Kaur wife of Shri Raghbir Singh, resident of Village Bhankharpur, had constructed a house on Khasra No.68//6/2 (2-5), on the western side of the house is a street, on the northern side is a *pucaa nallah*, there is a small plot which is being used as a manure pit and has shifted the gate of her house towards plot no.99 in front of *roori*. There has been criminal case registered against Balwinder Kaur-respondent No.5 as the petitioners were not being permitted to use the said land. In the meanwhile, Balwinder Kaur filed a suit for permanent injunction on 11.07.2017 for restraining Sukhdev Singh, then alive, his agent or representative from making any type of encroachment and interfering or causing any type of obstruction and free enjoyment in the passage leading to the house of Balwinder Kaur. Learned Civil Judge (Junior Division), Derabassi, vide order dated 18.12.2018 (Annexure P-4) accepted the prayer made by respondent No.5-Balwinder Kaur and directed the parties to maintain *status quo* with regard to the usage of passage/street/*roori* (plot) during the pendency of the suit, which suit continues and the interim order also

sustains as nothing has been said in the writ petition with regard to the said order or its continuation. It is in the light of the said *status quo* order granted by the Civil Court that the Director proceeded to pass the order dated 16.09.2019 in pursuance to the directions issued by this Court in CWP No.2425 of 2019. The operative part of the order dated 16.09.2019 reads as follows:-

“4. After considering the statements and record available on the file and perusal of report of B.D.P.O., Dera Bassi, I have reached the conclusion that gate of Smt. Balwinder kaur was earlier in 11 feet street just like the gates of other houses which has been shifted by her during the dispute towards plot no.99 in front of roori. Regarding the dispute, civil court vide order dated 18-12-2018 was granted status qua. As such till the decision of the civil court, no further proceedings to be initiated and report be submitted for necessary action.

In view of above facts and circumstances, I have come to conclusion that enquiry officer has given full opportunity of hearing to both sides on the spot, and send his enquiry report to me. An enquiry office has stated in his enquiry report that regarding this dispute that civil court has issued status quo order dated 18-12-2018. So, no proceedings will be taken in the matter unless there is decision of civil court. The following officer agrees with report of enquiry officer and it is ordered that after the decision of civil court, necessary action be taken by this office, so that dispute can be settled. So this way, the application of the petitioner be decided.”

4. This has led to the filing of the present writ petition by the petitioners.

5. Learned counsel for the petitioners has submitted that the

Civil Court does not have the jurisdiction to entertain petitions relating to the land which falls within the domain of the Punjab Village Common Lands (Regulation) Act, 1961. His further contention is that since the issue of title is involved, the revenue authorities are mandated and required to decide the same under the above Act, therefore, the impugned order dated 16.09.2019 (Annexure P-11) passed by the Director is not sustainable in law as the Director has shirked from his responsibility of issuing appropriate directions to the competent authority for deciding the issue with regard to the title.

6. When confronted with the factual position as existed today, what to say of the date on which the impugned order had been passed, learned counsel for the petitioners acknowledged the fact that the order dated 18.12.2018 (Annexure P-4) of the Civil Court still continues to operate.

7. Having considered the submissions made by the counsel for the petitioners, we find this writ petition to be a frivolous one which has been filed not with a *bona fide* intention. The petitioners being well aware of the fact that there is already a civil suit pending, where already there is an order of *status quo* passed in favour of respondent No.5-Balwinder Kaur and if they have any grievance against the said order, the petitioners have liberty to avail of the remedy in accordance with law. Further the impugned order which has been passed by the Director, Rural Development and Panchayat Department, Punjab, is based upon the facts of the case as he could not have violated the order passed by the Court, which he was bound to follow and keeping this in view, he had proceeded to pass the said order.

8. We do not find any ground for finding fault with the impugned

order nor do we find any ground for interference in the present writ petition, rather we are of the view that the petitioners have tried to misuse the process of Court and the approach to this Court by them is not bona fide.

The present writ petition is, therefore, dismissed with ₹30,000/- as costs.

**(AUGUSTINE GEORGE MASIH)
JUDGE**

December 16th, 2021
Puneet

**(SANDEEP MOUDGIL)
JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No