

CWP-1143-2020 (O&M)
Date of Decision: September 15, 2022

Prabhanti and others

..... Petitioners

Versus

Financial Commissioner, Revenue, Haryana and others

..... Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE HARSH BUNGER**

Present: Mr. Rajat Mor, Advocate for the petitioners.

LISA GILL, J.

Prayer in this writ petition is for quashing of order dated 19.03.2015 (Annexure P1) passed by the learned Collector, Sonipat; order dated 26.10.2018 (Annexure P2) passed by the learned Commissioner, Rohtak Range, Sonipat as well as order dated 28.08.2019 (Annexure P4) passed by the learned Financial Commissioner, Haryana.

Brief facts necessary for adjudication of the matter are that petitioners filed application under Section 13A of the Punjab Village Common Lands (Regulation) Act, 1961 as applicable to the State of Haryana (for short – ‘the PVCL Act’) with the averments that they are owners in cultivating possession of land in question i.e. land measuring 32 kanal situated at village Garh Mirakpur, Tehsil and District Sonapat as co-sharers since the time of their forefathers and that respondent - Gram Panchayat had no concern or connection with the land in question. Furthermore, merely on the basis of communication

dated 19.03.1997 of the Financial Commissioner mutation No. 772 of the land in question was wrongly entered in favour of Gram Panchayat vide order dated 24.03.1993. Mutation was thereafter corrected and mutation No. 811 dated 21.08.1997 was carried out with the name of owner in column No. 4 of jamabandi for the year 2000-01 reflected as Shamlat Deh Hasab Rasab Rakba Khewat. Proceedings, it is stated, were initiated in an illegal manner under Section 7 of the PVCL Act seeking ejectment of the petitioners and others from the land in question. Reference is made to order dated 04.07.2006 in CWP-8459-2003 whereby matter was remanded to the learned Collector for deciding the question with regard to title in view of judgment in **Jai Singh versus State of Haryana and others 2003 (2) P.L.R. 658**.

Learned counsel for the petitioners vehemently argues that once the land is reflected as Hasab Rasab Rakba Khewat, there is no question of eviction of the petitioners therefrom, as the said land does not fall under definition of Shamlat Deh and does not in any case vest in the Gram Panchayat. Therefore, proceedings initiated for eviction of the petitioners under Section 7 of the PVCL Act are illegal. It is argued that land has not been reserved for common purposes under the scheme and is bachat or surplus land, therefore, it does not vest with the State or the Gram Panchayat. It is, thus, submitted that in this view of the matter, impugned orders have been incorrectly passed by all the authorities without advertng to the facts, circumstances and the material on record. Reliance is placed on the judgment of **Jai Singh versus State of Haryana and others 2003 (2) P.L.R. 658**.

Heard, learned counsel for the petitioner and have perused the file with his able assistance.

It is relevant to note that though it is averred by learned counsel for the petitioners that present petitioners have been in cultivating possession of the land in question since the time of their forefathers, he is unable to point out any document on record to indicate that the petitioners were in possession of the property in question prior to 1950. Reliance by the petitioners on earlier decision in **Jai Singh versus State of Haryana and others 2003 (2) P.L.R. 658** is of no avail to the petitioners especially in view of subsequent decision of Hon'ble Supreme Court in **Civil Appeal No. 6990 of 2014 (The State of Haryana through Secretary to Government of Haryana versus Jai Singh and others)** decided on 07.04.2022, wherein it is held as under:-

“Keeping in view of the above discussions, we find that the land reserved for common purposes cannot be re-partitioned amongst the proprietors only because at a particular given time, the land so reserved has not been put to common use. The learned counsel for the parties could not point out any particular time-line during which the common purposes have to be accomplished. Since ‘common purpose’ is a dynamic expression, as it keeps changing due to the change in requirement of the society and the passing times, therefore once the land has been reserved for common purposes, it cannot be reverted to the proprietors for redistribution. Therefore, the conclusion no. (iii) arrived at by the High Court is set-aside as unutilized land is not available for redistribution amongst the proprietors. The finding recorded by the different Benches of the High Court are clearly erroneous and not sustainable. Thus, the conclusion no (iii) arrived at by the High Court in Jai Singh II is set aside.”

Learned counsel for the petitioners is further unable to point out anything on record to indicate how the petitioners are covered under Section 2(g)(viii) of the PVCL Act. He is unable to point out any pleading or evidence to

the said effect. Learned Financial Commissioner, Haryana vide order dated 28.08.2019 has correctly observed that petitioners have failed to produce any revenue record to establish that they or their predecessors-in-interest were in cultivating possession of land in question on or before 26.01.1950, therefore, the same does not fall under any of the exceptions provided under Section 2(g) of the PVCL Act.

Learned counsel for the petitioners is unable to point out any illegality, infirmity or perversity in the impugned orders, which calls for interference by this Court.

No other argument has been addressed.

Writ petition is, accordingly, dismissed with no order as to costs.

(LISA GILL)
JUDGE

September 15, 2022
Rts

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No