

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

**CWP-10530-1994 (O&M)
Date of Decision: 01.12.2022**

KARTAR SINGH

..... Petitioner(s)

Versus

THE COLLECTOR, SONEPAT AND OTHERS

..... Respondent(s)

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE RITU TAGORE**

Present: Mr. Jivesh Malik, Advocate for
Mr. Hitesh Malik, Advocate
for the petitioner.

Mr. Amit Aggarwal, DAG, Haryana.

Mr. S.P. Chahar, Advocate
for respondent no.3-Gram Panchayat.

LISA GILL, J.

Prayer in this writ petition is for setting aside order dated 28.01.1992 (Annexure P-4), passed by respondent no.2-Assistant Collector, 1st Grade, Gohana whereby ejectment of the petitioner from the Gram Panchayat land (Gair-Mumkin Johar/pond) has been ordered as well as order dated 31.05.1994 (Annexure P-5), passed by respondent no.1-Collector, Sonapat, dismissing the appeal filed by the petitioner.

Heard learned counsel for the parties.

Brief facts necessary for adjudication of the case are that petitioner, as per averments in the writ petition claims to be in peaceful possession of the land in question and earlier through his predecessor in interest i.e. his father. It is stated that petitioner's father was in possession

over a big chunk of the land including the land in question. Civil Suit No.6 of 1966 was filed by the petitioner's father seeking declaration for setting aside earlier orders of eviction passed against him. Said suit, it is submitted, was decreed on 26.07.1967 (Annexure P-1). It is further pleaded that possession of petitioner's father was protected at the time of consolidation. Reference is made to order dated 08.06.1965 (Annexure P-2), passed by the Additional Director, Consolidation to assert that present new Khasra No.65/3 has been allotted in lieu of the old Khasra No.3836/1720. It is further submitted that the land in question falls outside the Abadi Deh and petitioner has constructed his house thereon much prior to 1980. Petitioner claims to falls under the Exemption Clause of 2G(vi) of the Punjab Village Common Lands (Regulation) Act, 1961 [now Haryana Village Common Lands (Regulation) Act, 1961 as notified on 05.04.2021] (hereinafter referred to as the 'the Act'). In the given circumstances, it is submitted that the impugned orders directing ejectment of the petitioner are totally unjustified and arbitrary. It is, thus, prayed that this writ petition be allowed and the orders be set aside.

Learned counsel for the respondent-Gram Panchayat while refuting the arguments on behalf of the petitioner argues that absolutely incorrect facts are sought to be projected before this Court. Reference to the judgment and decree dated 26.07.1967 is misplaced, for the reason that subject matter of the same was 100 Bighas and 04 Biswas of land comprised in Khasra No.1248. Moreover, the suit, it is submitted, was decreed only due to the collusion on the part of Didar Singh, the then Sarpanch, who had admitted petitioner's father to be in possession of the said approximately 100 Bighas of land as a tenant from 1954 onwards.

It is further pointed out that the averment regarding Khasra No.65/3 being given in lieu of old Khasra No.3836/1720 is incorrect. Reference is made to order dated 08.06.1965 (Annexure P-2) wherein the petition under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, filed by petitioner's father was accepted in respect of the old Khasra No.1248 and Khasra No.3834/914 only and not Khasra No.3836/1720. Moreover, present land comprised in Khewat No.471, Khasra No.65/3 is reflected as the Gair-Mumkin Johar/pond in the revenue records, therefore, the impugned orders, it is submitted have been correctly passed. Dismissal of the writ petition is prayed for.

Learned counsel for the petitioner is unable to deny that as per the relevant revenue record, land in question is classified as Gair-Mumkin Johar/pond and is comprised in Khasra No.65/3. Therefore, in view of the settled position, area of the pond could not be allotted to the petitioner. Reference can gainfully be made to the judgment of the Hon'ble Supreme Court in ***Jagpal Singh and others Vs. State of Punjab and others, 2011(11) SCC 396.***

It is further a matter of record and undeniable that the judgment and decree dated 26.07.1967 has no concern with the Khasra No.65/3 and neither was it ever allotted to the petitioner's father at the time of consolidation in lieu of the old Khasra No.3836/1720. Therefore, the concurrent finding arrived at by the authorities that the petitioner has to be evicted from the land in question, which is a part of the Gair-Mumkin Johar/pond, is beyond the pale of any interference.

No other argument has been addressed.

In view of the above, impugned orders dated 28.01.1992 and 31.05.1994 are accordingly upheld and the present writ petition is dismissed.

(LISA GILL)
JUDGE

01.12.2022

Sunil

(RITU TAGORE)
JUDGE

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