

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

CWP-3313-2020

Date of Decision: December 05, 2022

RAJINDER SINGH AND ORS

..... Petitioners

Versus

STATE OF PUNJAB AND ORS

..... Respondents

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

Present: Mr. Deepak Nayar, Advocate for the petitioners.

LISA GILL, J.

Present writ petition has been filed for setting aside order dated 02.05.2018 passed by the Joint Development and Commissioner, Rural Development and Panchayat Department, Punjab.

It is submitted that respondent – Gram Panchayat filed a petition under Section 7 of the Punjab Village Common Lands (Regulation) Act (for short – ‘PVCL Act’) seeking eviction of the petitioners from the property in question. Petitioners are stated to have contested the same by filing the written statement. Petitioners filed an application seeking stay of ejectment proceedings alongwith. Stand taken by the petitioners was that the property in question did not vest in the Gram Panchayat as the same was in possession of the proprietors as owners prior to consolidation proceedings. It is further stated in para 3 of this writ petition that land was deducted from the holdings of the proprietors and was never used for common purposes. Same being Bachat land was kept for income of the Gram Panchayat during consolidation proceedings in the year 1962-63.

Petitioner’s application for stay of the proceedings under Section 7 of the

PVCL Act was dismissed by District Development and Panchayat Officer (exercising powers of the Collector) vide order dated 03.11.2017 attached as Annexure P1 with this writ petition. Appeal filed by the petitioners challenging order dated 03.11.2017 was dismissed by the Director, Rural Development and Panchayat Officer vide impugned order dated 02.05.2018.

It is stated in the writ petition that in the year 1969, proprietors of the village filed a petition under Section 42 of the East Punjab (Consolidation of Holdings and Prevention of Fragmentation) Act, 1948 (for short, 'Consolidation Act') for distribution of the land in question amongst right holders and this petition was allowed on 26.02.1969. It is further stated that Director, Consolidation directed the Settlement Officer to amend the Consolidation Scheme of the village and distribute the area among right holders while also directing that if any Bachat area is available, the same should also be distributed among the right holders. Since then, right holders are in possession of specific area as per their share. Mutation in this respect was not entered in the names of the right holders due to which Gram Panchayat filed ejectment petition taking advantage of the incorrect revenue entries. Title suit, it is submitted, is pending adjudication between the parties before the Civil Court, therefore, in this situation, proceedings under Section 7 of the PVCL Act should not be allowed to continue.

It is relevant to note that neither the petition under Section 42 of the Consolidation Act stated to have been filed nor order 26.02.1969 deciding the same is on record. There is also no detail available regarding the suit stated to be pending between the parties. Relevant documents necessary for adjudication of this matter have not been attached with this

petition which was adjourned on 04.03.2020, to enable learned counsel for the petitioners to place on record applications dated 31.05.2016 and 05.07.2016, which were dismissed by the Collector, Ludhiana, vide order dated 03.11.2017 (Annexure P1). The matter could however not be taken up for hearing till 08.03.2022, due to outbreak of pandemic COVID-19. At that stage order dated 04.03.2020 had not been complied with, therefore, more time was afforded to do the needful. However, necessary steps were not taken. Following order was passed on 21.09.2022:-

“ Learned counsel for the petitioners prays for one last opportunity to comply with order dated 04.03.2020.

At request, adjourned to 05.12.2022.

It is made clear that in case needful is not done before the next date of hearing, this writ petition shall automatically stand dismissed.”

Till today, needful has not been done though learned counsel for the petitioners submits that an application was filed on 02.12.2022 but the same is not listed due to certain objections raised by the Registry.

Keeping in view the facts and circumstances, we are left with no other option, but to dismiss this petition in view of order dated 21.09.2022. However, in order to still obviate prejudice of any kind to the petitioners, liberty is afforded to them to file afresh with complete and better particulars within four weeks of receipt of certified copy of this order.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

December 05, 2022

Rts

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No