

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

110

**CM-11173-CWP-2022 &
CWP-6199-2022**

Date of Decision: August 05, 2022

HUKMI@HUKAM SINGH SINCE DECEASED THROUGH HIS LR

...PETITIONER

Versus

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

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

**Present: Mr. Aditya Jain, Advocate,
for the petitioner.**

**Mr. Pravinder Singh Chauhan, Sr. Addl. A.G. Haryana,
for the State.**

AUGUSTINE GEORGE MASIH, J.(ORAL)

CM-11173-CWP-2022

Prayer in this application is for restoration of the writ petition to its original number which was dismissed for non-prosecution by this Court vide order dated 18.07.2022.

The reason for non-appearance of the counsel for the applicant-petitioner is stated to be his appearance before a Co-ordinate Bench and by the time he reached the Court, the order had already been passed. The application is supported by the affidavit of the Clerk of the Advocate.

In the light of the above and in the light of the statement made by the counsel for the applicant-petitioner in Court today, we accept the reason for non-appearance of the counsel and recall our order dated 18.07.2022 and restore the writ petition to its original number.

The application stands allowed.

CWP-6199-2022

Challenge in this writ petition is to the orders dated 03.05.2017 (Annexure P-4) passed by the Assistant Collector, 1st Grade-cum-District Revenue Officer, Palwal-respondent No. 4, whereby the eviction of the petitioner from the land in question had been ordered along with fine of ₹10,000/- per hectare on yearly basis in Court from 20.05.2011, order dated 02.11.2017 (Annexure P-5) passed by the District Collector, Palwal-respondent No. 3 rejecting the appeal of the petitioner as also the order dated 13.08.2021 (Annexure P-6) passed by the Commissioner, Faridabad Division, Faridabad-respondent No. 2 dismissing the revision petition of the petitioner.

It is the contention of the learned counsel for the petitioner that respondent No. 5-Gram Panchayat is not the owner of the land and, therefore, did not have any right for seeking eviction of the petitioner from the land in question. He contends that the predecessors-in-interest of the petitioner had been in continuous possession of the land prior to 26.01.1950, the cut off date fixed. In support of this contention, he has referred to the pleadings before the authorities below.

Contention has also been raised that since the land does not fall under the definition of 'Shamlat Deh' as provided under Section 2 (g) of the Punjab Village Common Lands (Regulation) Act, 1961, the petitioner would be entitled to continue in possession of the land and the impugned orders cannot sustain. However, he has, very fairly, brought to the notice of the Court that the possession of the land has already been taken by the Gram Panchayat and as of now, the Gram Panchayat is in possession of the land in

question.

Having considered the submissions made by the learned counsel for the petitioner, we are not inclined to accept the claim of the petitioner as no revenue records have been placed on record which would indicate the possession of the predecessors-in-interest of the petitioner prior to the cut off date i.e. 26.01.1950.

The reason for not accepting the said claim of the petitioner with regard to the land falling in exception of Section 2 (g) of the Punjab Village Common Lands (Regulation) Act, 1961 is the same as the authorities below. In the absence of any evidence to the effect with regard to the possession of the land at the hands of the predecessors-in-interest of the petitioner, the findings, as recorded by the authorities below, cannot be faulted with.

There being no merit in the present petition, the same stands dismissed.

(AUGUSTINE GEORGE MASIH)
JUDGE

August 05, 2022
pj

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No