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

CWP-8704-2019

Date of Decision: December 14, 2022

Gram Panchayat Sanghol

..... Petitioner

Versus

Joint Development Commissioner (I.R.D.) Punjab and another

..... Respondents

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

Present: Mr. J.S. Bhandohal, Advocate for the petitioner.

Mr. Sandeep Jain, Addl.AG, Punjab.

Mr. N.P.S. Mann, Advocate for respondent No. 2.

LISA GILL, J.

This writ petition has been filed for setting aside order dated 26.11.2015 (Annexure P1) passed by the learned Collector-cum-District Development and Panchayat Officer, Fatehgarh Sahib as well as order dated 01.11.2017 (Annexure P2) passed by the learned Joint Commissioner (Development), Punjab (exercising the powers of Commissioner), whereby petition under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short – '1961 Act') filed by the petitioner has been dismissed on 26.11.2015. Appeal filed by the petitioner was also dismissed vide order dated 01.11.2017.

Brief facts necessary for adjudication of the case are that

petitioner – Gram Panchayat filed a petition under Section 7 of the 1961

Act seeking ejectment of respondent No. 2 from two plots in question (as described in the petition) claiming him to be in illegal possession thereof. Petitioner - Gram Panchayat claimed that the land in question vested with it being shamlat land and that respondent No. 2 was in illegal possession thereof. Respondent No. 2 took a stand that land in question was never used for any common purpose and that during the year 1959-60 Gram Panchayat had allotted the plots to his father with 25% of the applicable cost being deposited with the Gram Panchayat by his father. Requisite entry in this regard, it is stated, existed in the cash book of Gram Panchayat, Sanghol for the year 1959-60. It is further pleaded that after allotment of plots to the respondent's father, the same were in continuous possession of respondent's father and after his death, with respondent No. 2. Construction was stated to have been carried out on the site. Dismissal of the petition was sought.

The Collector, Fatehgarh Sahib vide order dated 26.11.2015, concluded that the disputed land was indeed allotted by Gram Panchayat to the father of respondent No. 2 during the year 1959-60 and after allotment thereof, respondent's father was in continuous possession thereof. It was held that possession of respondent No. 2 was not illegal. Petition filed by the Gram Panchayat was dismissed with a direction that amount to be recovered from the said respondent should be assessed and the same deposited with the village Panchayat by respondent No. 2 within two months of the assessment and in case, the assessed amount was not deposited as per Rules, the Gram Panchayat should take necessary action to take possession of the land.

Appeal under Section 7(2) of the 1961 Act was filed by the Gram Panchayat, which was dismissed on 01.11.2017. It was observed therein that respondent No. 2 pursuant to order dated 26.11.2015 had

deposited the amounts of Rs.14,690/- and Rs.14,720/- on 22.01.2016. Aggrieved therefrom, present writ petition has been filed.

Learned counsel for the petitioner argued that Gram Panchayat did not have any legal authority to allot public property to any person on its own without prior approval of the Government and that the entire proceedings carried out by the then Gram Panchayat are illegal, therefore, impugned orders be set aside.

Written statement has been filed on behalf of respondent No. 2 refuting the averments as raised. It is submitted that the impugned orders have been correctly passed by the authorities, keeping in view the factual position and provisions of law. Learned counsel for respondent No. 2 submits that present writ petition has been filed only with a view to cause harassment to the said respondent. Suit for permanent injunction was statedly filed by the Gram Panchayat on 07.09.2012 for restraining respondent No. 2 from changing the nature of property before the learned Civil Judge (Senior Division), Fatehgarh Sahib. However, the then Sarpanch of the petitioner - Gram Panchayat recorded his statement that he did not wish to proceed with the suit and the same was dismissed as withdrawn on 15.01.2016. Reference is made to the translated copies of cash books indicating deposit of the amounts as stated in the foregoing paras on 22.01.2016.

Learned counsel for respondent No. 2 further submits that registered sale deeds in respect to two plots allotted to the father of the answering respondent were duly registered vide vasika Nos. 1247 and 1248 evenly dated 19.01.2018 after receiving the complete amount of payment.

Translated copies of the sale deeds are attached as Annexures R4 and R5

with the written statement. Learned counsel for respondent No. 2 points out that during pendency of the appeal before the Commissioner, it was proposed by the Gram Panchayat that the present value of the land in dispute would be decided and market value, as assessed at that time, was duly deposited by respondent No. 2.

Respondent No. 2, it is stated, also applied for 'No Objection Certificate' from the Department of Cultural Affairs, Archaeology and Museum Punjab seeking permission to construct on the plot. Necessary permission was granted on 15.01.2019.

Reference is also made to decision dated 17.05.2018 in **CWP-19294-2017** titled **Gram Panchayat Sanghol versus State of Punjab and others**. In the said writ petition, the present petitioner i.e. Gram Panchayat, Sanghol had sought eviction of the private respondents therein, who were alleged to be in illegal possession of the shamlat land, which had in fact been given/allotted to them on the basis of Resolution dated 24.06.1982. It was the case of the Gram Panchayat in the said writ petition as well as nearly twenty other writ petitions filed by the Gram Panchayat that allotment/transfer by the erstwhile Sarpanch of the Gram Panchayat was collusive in nature, therefore, ejectment of the private respondents therein was sought with a prayer for setting aside the orders rejecting its petition(s) under Section 7 of the 1961 Act seeking ejectment of the concerned persons.

All the writ petitions filed by Gram Panchayat, Sanghol, which is also the petitioner in this case, were dismissed by this High Court on 17.05.2018 while observing as under:-

“ Before us learned counsel for the petitioner had contended that there were no residential houses, in fact shops had been constructed by the occupants. To be factually correct,

we had asked for a report from the Deputy Commissioner, Fatehgarh Sahib, who has since responded to the mandate of the Court and in his report has stated that the structures on the disputed area are largely shops with one or two houses and few plots which are vacant. We would have no reason to disagree with the report of the Deputy Commissioner particularly when there is no objection from the petitioner who rather sees it as supportive to his cause.

After hearing the learned counsel for the petitioner, we are of the opinion that all these writ petitions do not merit any interference. The prolonged possession of the private respondents flowing from a resolution dated 24.06.1982 of the Gram Panchayat cannot be unsettled by the petitioner at this stage particularly when the said occupants have been put to terms to have ownership rights of the sites subject to their depositing price at the collector rate.

One of the reasons that persuaded us to negate the plea of the Gram Panchayat is that the possession flowed from a valid resolution of the Gram Panchayat passed in the year 1982 and the occupants have since then constructed shops, invested money in the structures and are eking out a livelihood therefrom. There would thus be no ground to interfere, but before parting with the order, we direct the Deputy Commissioner, Fatehgarh Sahib to instantaneously determine the price of the sites within a period of one month from today and put the occupants on notice qua the payment thereof to be paid within a period of four months thereafter. The necessary procedure for ownership etc. in accordance with law be followed.

All the petitions stand dismissed.”

In the present case, two plots in question had admittedly been allotted to the father of respondent No. 2 way back in the year 1959-60 and the same have admittedly been in the possession, firstly of the father of

respondent No. 2 and after his death with respondent No. 2. Respondent No. 2 has admittedly been put to terms for ownership rights of the plots subject to deposit of assessed price. The amount as assessed was duly deposited by the petitioner.

Learned counsel for the petitioner – Gram Panchayat is unable to distinguish the case of respondent No. 2 from those in CWP-19294-2017 and connected matters, which pertained to the same Gram Panchayat and dealt with transfer of land on the basis of a later Resolution dated 24.06.1982.

Impugned order dated 26.11.2015 as well as order dated 01.11.2017 have been correctly passed by both the authorities. Keeping in view the facts and circumstances, we find no ground whatsoever for setting aside the same in the given factual matrix.

No other argument has been addressed.

Present writ petition is, accordingly, dismissed.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

December 14, 2022
Rts

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