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

**CWP-10335-2022  
DECIDED ON: 16.05.2022**

**KULDEEP SINGH (NOW DECEASED)  
THROUGH HIS LRS.**

**.....PETITIONERS**

**VERSUS**

**STATE OF PUNJAB AND OTHERS**

**.....RESPONDENTS**

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

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

**SANDEEP MOUDGIL, J.**

The instant writ petition has come up for hearing assailing the orders dated 28.01.2014 (Annexure P-4) passed by the District Development and Panchayat Officer, exercising the powers of 'Collector' and the order dated 13.06.2019 (Annexure P-6) passed by the Special Secretary, Department of Rural Development and Panchayat, Punjab, Vikas Bhawan, SAS Nagar-cum-Commissioner, exercising the powers of the Appellate Authority, dealing with an application filed by Gram Panchayat-respondent No.4 herein, under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as 'Act, 1961').

The revenue authorities have ordered the ejectment of the petitioner from the land, in question, after recording a finding that the Gram Panchayat, Jhumba is the owner of the land bearing Khasra No.151//4/2(2-4), 151//5/1-2-3-4-5 (6-15) measuring 8 kanals 17 marlas.

The factual matrix leading to the filing of the present writ petition can be culled-out as the land, in question, was claimed to be in the ownership of the Gram Panchayat, which the petitioner had unauthorisedly possessed under the garb of looking after the same. Despite various requests being made, possession was not delivered back to the Gram Panchayat and, thus, the application under Section 7 of the Act, 1961, was preferred by the Gram Panchayat to evict the petitioners from the disputed land.

Learned counsel for the petitioner argued that the land in dispute was in possession of the petitioner's forefather Sohan Singh since 1962 and thereafter, with the petitioner Kuldeep Singh (since deceased) and after his death, it is being possessed by his LRs namely Smt. Amarjit Kaur (wife), Sh. Rajinderpal Singh (son) and Sh. Palwinder Singh (son). It is submitted that all the heirs of Sohan Singh were not shown because Gulzar Singh and Diddar Singh are also the successors of Sohan Singh but they were not impleaded as a party.

Learned counsel for the petitioner further submitted that no rent or chakota was paid and, therefore, the petitioner is legally entitled for possession upon the land in dispute.

Reliance on behalf of the petitioner has placed upon copies of  *khasra girdawari*  for the years 1990-1991, 2005-06 and 2012-13 showing one Sohan Singh as the cultivator, whereas according to  *Jamabandi*  Sh. Sohan Singh and Sh. Kuldeep Singh are claimed to be in possession as the cultivators as  *gair marusi* . Sh. Sohan Singh has been shown as a  *gair marusi*  cultivator in the  *Jamabandi*  for the year 1974-75. It is also submitted on behalf of the petitioner that Gram Panchayat is not the owner of the land

and the same was never auctioned rather the land, in question, is the *jumla malkan hasab rasad* khewat, land carved out of the land of the original proprietors of the village, during the consolidation and as such the Gram Panchayat has no concern whatsoever inasmuch as this land was never used for common purposes nor was given on *Hissa* or *Theka* by the Gram Panchayat at any point of time. The petitioners have claimed possession since 1962, i.e., more than 50 years and finally prayed to set aside the orders dated 28.01.2014 (Annexure P-4), passed by the District Development and Panchayat Officer-cum-Collector and dated 13.06.2019 (Annexure P-6) passed by the Special Secretary, Department of Rural Development and Panchayat, Punjab, Vikas Bhawan, SAS Nagar-cum-Commissioner by contending that the provisions of Act, 1961 would not apply to the present case as neither there is any lease nor it was given on *Hissa* or *Theka* to any person at any time whatsoever.

Having heard learned counsel for the petitioner, it is evident on record that Kuldeep Singh expired on 05.10.2018 during the pendency of his appeal before the Commissioner and his LRs were brought on record, vide application dated 14.05.2019, which was allowed on even date order i.e. dated 13.06.2019 (Annexure P-6) by the Commissioner. The learned Collector had allowed the application of the Gram Panchayat under Section 7 of the Act of 1961 and ordered eviction of the petitioner-Kuldeep Singh.

Both the revenue authorities below have returned a finding of fact that the petitioner had failed to produce any evidence showing his cultivating possession and the ownership prior to 26.01.1950, over the land in question as is mandated by Section 2(g)(5)((iv) and (viii)) of the Act of

1961, which provides as under:-

*“2. In this Act, unless the context otherwise requires:-*

*(g) “Shamlat deh” includes—*

*XX XX XX XX XX*

*(5) lands in any village described as banjar qadim and used for common purposes of the village according to revenue records but does not include land which--*

*(iv) having been acquired before the 26<sup>th</sup> January, 1950, by a person by purchase or in exchange for proprietary land from a co-sharer in the shamilat deh and is so recorded in the jamabandi or is supported by a valid deed;*

*XX XX XX XX XX*

*(viii) was shamlat deh, was assessed to land revenue and has been in the individual cultivating possession of co-sharers not being in excess of their respective shares in such shamlat deh on or before the 26<sup>th</sup> January, 1950”.*

According to the document led in evidence in the form of *Jamabandi* for the year 2009-10 and recorded in the order of Commissioner-cum-Appellate Authority, the land belongs to Panchayat deh and is vested in the Gram Panchayat for its use for common purposes by the Gram Panchayat being its owner.

We, therefore, could not find any substance in the assertions raised by the learned counsel on behalf of the petitioner that the Gram

Panchayat never remained in possession and nor utilized the land for common purposes inasmuch as the reliance placed to establish ownership over the land on the basis of *girdawari* pertaining to the year 1990 lacks merit, as the same cannot be a document to prove ownership/title over the land by any means. In fact, the findings recorded by the authorities below to the effect that the petitioner is in unauthorized possession over the land belonging to the Gram Panchayat are well reasoned and based on the documentary evidence on record.

In view of the facts and circumstances, as discussed hereinabove, we are not inclined to interfere with the orders dated 28.01.2014 (Annexure P-4), passed by the District Development and Panchayat Officer-cum-Collector and dated 13.06.2019 (Annexure P-6) passed by the Special Secretary, Department of Rural Development and Panchayat-cum-Commissioner.

Hence, the writ petition stands dismissed.

**(SANDEEP MOUDGIL)**  
**JUDGE**

**(AUGUSTINE GEORGE MASIH)**  
**JUDGE**

**16.05.2022**  
*poonam negi*

*Whether speaking/reasoned Yes/No*

*Whether reportable Yes/No*