

CWP No.11849 of 2022 (O&M) & connected cases

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision : 26.07.2022

(1)

CWP No.11849 of 2022 (O&M)

Sajjan Singh

.....Petitioner

VERSUS

State of Punjab and others

....Respondents

(2)

CWP No.11859 of 2022

Makhtiar Singh

.....Petitioner

VERSUS

State of Punjab and others

....Respondents

(3)

CWP No.11867 of 2022

Jagtar Singh

.....Petitioner

VERSUS

State of Punjab and others

....Respondents

(4)

CWP No.11897 of 2022

Baldev Singh and sons

.....Petitioners

VERSUS

State of Punjab and others

....Respondents

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

Present: Mr. H.S. Dhindsa, Advocate
for the petitioner(s) in CWP No.11849 of 2022.

Mr. Swarn Singh Tiwana, Advocate
for the petitioners in remaining three writ petitions.

Ms. Monica Chhibber Sharma, Sr. DAG, Punjab.

Mr. Nakul Sharma, Advocate
for respondent No.4 – Gram Panchayat.

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AUGUSTINE GEORGE MASI, J. (ORAL)

CM-10826-CWP-2022

Prayer in this application is for placing on record certain documents as Annexures A-1 to A-5.

For the reasons mentioned in the application, the same is allowed. Annexures A-1 to A-5 are taken on record, subject to all just exceptions.

CM-8808-CWP-2022

Prayer in this application is for placing on record the resolution of the Gram Panchayat, dated 30.07.2015, as Annexures A-1.

For the reasons mentioned in the application, the same is allowed. Annexure A-1 is taken on record, subject to all just exceptions.

Main cases

By this order, we propose to dispose of four writ petitions i.e. CWP No.11849, 11859, 11867 and 11897 of 2022, which have been preferred by the petitioners claiming themselves to be the lease-holders of the plots which were carved out by the Gram Panchayat Village Salani, Tehsil Amloh, District Fatehgarh Sahib – respondent No.4 (hereinafter referred to as 'Gram Panchayat'), where the plots are being put to commercial use and their eviction had been ordered from the plots in question by the Collector-cum-District Development and Panchayat Officer, Fatehgarh Sahib, appeal against which has been dismissed by the Appellate Authority leading to the filing of these writ petitions.

2. Briefly, the facts of these cases are that the Gram Panchayat had leased out the plots in question in the year 2008 for a period of five years. The lease was being extended on year to year basis. After the expiry

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of the said period of five years, as per the Gram Panchayat, lease deed was not extended. Despite various requests made by the Gram Panchayat, who, admittedly, is the owner of the plots in question, the same were not vacated. Ultimately, the Gram Panchayat decided to lease the plots. In the year 2017, the land was leased out to different persons other than the petitioners with a condition that the lease amount shall be enhanced by 10% per year as per the policy of the Government of Punjab. Despite that, the possession was not handed-over by the petitioners and ultimately, a resolution was passed by the Gram Panchayat on 14.08.2017 authorizing the Sarpanch of the Gram Panchayat to initiate proceedings under Section 7-A of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as '1961 Act') for eviction of the petitioners.

The said proceedings were initiated on 01.01.2018. It was asserted that the land in question falls in the definition of shamlat as per Section 2(g) of the 1961 Act, which is being used for common purpose of the village and is being leased out on year to year basis. The income derived from the said land is being used for common works, welfare and development of the village. Since the year 2013, no lease money has been paid and the petitioners are in illegal possession of the land as they have not handed over the possession thereof to the Gram Panchayat despite being called upon by the Gram Panchayat vacating the same rather they have flatly refused for the same. Upon notice having been issued in the eviction proceedings, reply had been filed by the petitioners, wherein they claimed that they are in possession since more than 40 years and each year, the Gram Panchayat has been extending lease. They are ready and willing to extend the lease as also to enhance the lease money. As regards the lease

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which was granted in the year 2017 to some other person, the same is said to be a forged document with an intention to harm the petitioners. Petitioners have been paying the lease money regularly, but the Gram Panchayat, because of the *mala fide* intention, has taken such a stand for evicting the petitioners from the plots.

3. After giving the parties an opportunity of hearing, the Collector-cum-District Development and Panchayat Officer, Fatehgarh Sahib, vide order dated 29.11.2018 (Annexure P-1) has ordered the eviction of the petitioners on coming to the conclusion that as per the jamabandi for the year 2011-12, the land in question is Nagar Panchayat Deh and the Gram Panchayat is mentioned as the owner of the land in question. The petitioners have not been able to show any renewal of the lease deed after the expiry of the period of lease in the year 2013. Therefore, the possession of the petitioners have been found to be illegal and their eviction has been ordered on the ground that there is no valid lease in favour of the petitioners.

4. An appeal was preferred by the petitioners under Section 7 (2) of the 1961 Act, wherein, apart from asserting that they had been in possession of land in question for over 40 years, a huge amount has been said to have been spent for making it usable for commercial purposes. They also had asserted that they are ready to pay the lease amount with 10% increase as per the general rules. The Appellate Authority has found that there is nothing on record which had been projected by the petitioners showing extension of lease after expiry of the lease period. Since the lease period has expired, the possession at the hands of the petitioners being illegal, the eviction order as passed by the Collector-cum-District

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Development and Panchayat Officer, Fatehgarh Sahib, has been upheld leading to the filing of these writ petitions.

5. Learned counsel for the petitioners has submitted that the petitioners are in possession of the land since the year 1980 on lease basis with the Gram Panchayat. Counsel for the petitioners in CWP No.11849 of 2022, titled as 'Sajjan Singh Vs. State of Punjab and others', referred to the Minutes of Meeting dated 30.07.2015 to contend that the Gram Panchayat has already forwarded the case of the petitioners for leasing out the land for a period of 33 years to the Government as per the policy of the Government of Punjab. Deposit of the amount has also been claimed to have been made by the petitioners on that basis. Resolution of the Gram Panchayat, dated 30.07.2015, mentions the new lease deed policy of Gram Panchayat land, 2014, according to which lease of upto 33 years could be made. Claim has also been made for the period 28.06.2011 to 28.06.2016 and the amount so assessed, which according to the petitioners, stands deposited. On this basis, counsel have asserted that the possession of the petitioners cannot be said to be illegal. That apart, they contend that the petitioners are ready and willing to deposit the amount at the enhanced rate of 10% per annum as per the policy of the year 2014. The lease amount has already been paid/deposited with the account of the Gram Panchayat and therefore, the eviction order as passed by the authorities under the 1961 Act cannot sustain and deserves to be set aside.

6. Learned counsel for respondent No.4 – Gram Panchayat has opposed the submissions made by the learned counsel for the petitioners by contending that the said resolutions are mere recommendations. Unless the said recommendation, as made in the resolution by the Gram Panchayat, is

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accepted by the Competent Authority, the same has no value according to the policy of 2014. In any case, it is asserted that the Gram Panchayat has all through been claiming that the petitioners are in illegal possession of the land since the year 2013 when the lease had come to an end which was for a period of five years from the year 2008. There was no lease money deposited with the petitioners nor was there any extension of lease by the Gram Panchayat. In any case, he asserts that even if the land is given on lease and resolution to that effect is passed, unless the same is approved by the Competent Authority, the said lease would not have any semblance of legal right conferred upon the party.

7. Learned counsel for the State of Punjab has supported the submissions as have been made by the learned counsel for respondent No.4 – Gram Panchayat.

8. We have considered the submissions made by the learned counsel for the parties and with their assistance have gone through the records of the case.

9. The admitted facts of the case are that the land in question is owned by the Gram Panchayat. As per the pleadings on the part of the Gram Panchayat, the plots in question were given on lease for commercial purpose to the petitioners in the year 2008 for a period of five years which lease period had expired in the year 2013. Thereafter, there was a gap of two years where there is no lease. The writ petitioners though now claim resolution dated 30.07.2015 being sought to be projected to have been passed by the Gram Panchayat proposing to lease out the plots in question for a period of 33 years as per the Punjab Government policy of the year 2014. The said resolution, as per policy framed by the Government of

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Punjab, requires approval from the Competent Authority. Admittedly, there is no approval by the Competent Authority till date. Counsel for the petitioners has also conceded this fact that there is no approval by the Competent Authority and that the policy of the year 2014 under which the lease for 33 years is being sought to be claimed by the petitioners requires such approval, without which the said lease cannot be said to be executed. If that be so, no right is conferred upon the petitioners to continue in possession of the plots in question. Without there being a valid lease in their favour, the petitioners have rightly been found to be in illegal possession and ordered to be evicted from the Gram Panchayat land. The factum that the Gram Panchayat has leased out the land to other persons in the year 2017 has not been disputed, rather the stand of the petitioners is that the said lease was a forged document and the resolution also unsustainable. This clearly indicates that the petitioners were very much aware of the fact that the land has been leased out to some other persons but the petitioners did not take any steps to assail the same.

10. The findings as recorded by the authorities under the 1961 Act cannot be said to be without any basis or contrary to the pleadings. The impugned orders are, therefore, upheld.

11. Finding no merit in these writ petitions, we dismiss the same.

(AUGUSTINE GEORGE MASIH)
JUDGE

26.07.2022
Harish

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No