

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

Civil Writ Petition No.12622 of 2020

Date of Decision: September 21, 2022.

Harjit Kaur and others

..... PETITIONER (s)

Versus

Director Rural Development and Panchayat Punjab and another

..... RESPONDENT (s)

**CORAM:- HON'BLE MRS.JUSTICE LISA GILL
HON'BLE MR.JUSTICE HARSH BUNGER**

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

Mr. Sandeep Jain, Addl.AG, Punjab.

Mr. A.P.Kaushal, Advocate
for respondent No.2.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

Prayer in this writ petition is for quashing of orders dated 28.01.2019 and 28.02.2020 passed by the Collector-cum-District Development and Panchayat Officer, Amritsar and Director, Rural Development and Panchayat Department, Punjab (Exercising the powers of Commissioner), respectively.

Respondent-Gram Panchayat in this case filed petition under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short, '1961 Act') seeking eviction of the petitioners from the land in question claiming them

to be in illegal possession of the same since 2007-2008. Said petition was

allowed by the Collector-cum-District Development and Panchayat Officer, Amritsar vide impugned order dated 28.01.2019. Appeal filed by the petitioners was dismissed by the Director, Rural Development and Panchayat Department, Punjab in exercise of powers of Commissioner, vide impugned order dated 28.02.2020.

Aggrieved therefrom, present petition has been filed.

Learned counsel for the petitioners vehemently argues that the land in question is described in the ownership column as '*Shamlat Tarf Bagga Hasab Hisab Jagta Dipoana Jitoana Padheana Rupewala Hissa Mandrajja Jamabandi*' and in the column of cultivation, names of Harjit Singh i.e., petitioner No.1's husband and father of petitioners No.2 and 3 as well as Gurbaksh Singh i.e., father-in-law of petitioner No.1 and grandfather of petitioners No.2 and 3, are mentioned qua specific Khasra numbers. Said land, it is submitted, was never used or reserved for any common purpose. Therefore, the land in question does not fall within the ambit of Section 2(g) of 1961 Act. It is further submitted that said land was purchased by the petitioners vide registered sale-deed dated 12.12.1984. Gurbaksh Singh, father of Harjit Singh (petitioner No.1's husband and father of petitioners No.2 and 3) is stated to be owner-in-possession of 8 Kanals of land and after his death 4 Kanals land came to the share of Harjit Singh and 4 Kanals fell to the share of his brother, who had sold the same. Petitioners/their predecessor-in-interest, it is submitted, have been in possession of the land in question since long. Learned counsel for the petitioners submits that petition under Section 7 of the 1961 Act was motivated due to factionalism in the village and petitioners were targeted in a *mala fide* manner. It is further

years in an absolutely arbitrary manner while not considering even one of the arguments raised on behalf of the petitioners. Learned counsel submits that learned Commissioner has also proceeded in an arbitrary and illegal manner while dismissing appeal filed by the petitioners wherein again none of the arguments raised were adverted to by the said authority. It is, thus, prayed that this petition be allowed.

Learned counsel for the respondents while refuting the arguments submit that the impugned orders have been correctly passed and should be upheld.

We have heard learned counsel for the parties and have gone through the file.

Petition under Section 7 of the 1961 Act filed by the Gram Panchayat has been allowed by the Collector while observing as under:-

“According to arguments of both the counsels and record on the file, ownership of the land in dispute is of Gram Panchayat. Illegal possession of respondent is proved. So petition of Panchayat is accepted, respondent is evicted from land in dispute and 20 times compensation of three years at the rate of ₹20,000/- per acre is imposed.”

Perusal of order dated 28.02.2020 passed by the Commissioner also reveals that none of the arguments raised on behalf of the petitioners have been addressed. Perusal of the file discloses that notice of motion was issued in this petition while noticing the contention on behalf of the petitioners that both the impugned orders passed by the Collector as well as Appellate Authority regarding eviction of the petitioners are cryptic, sketchy and non-speaking. It is

a settled position of law that quasi-judicial authorities should pass well reasoned orders reflecting application of mind pursuant to consideration of all the facts and circumstances as set forth before it/them. It has been held by the Hon'ble Supreme Court in M/s Kranti Associates Pvt. Ltd. and another v. Sh. Masood Ahmed Khan and others, 2010(9) SCC 496 as under:-

- “b. A quasi-judicial authority must record reasons in support of its conclusions.
- c. Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.
- d. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.
- e. Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.
- f. Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.
- g. Reasons facilitate the process of judicial review by superior Courts.
- h. The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.
- i. Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.”

Hon'ble Supreme Court in the abovesaid case further held that,

reasons or 'rubber-stamp reasons' is not to be equated with a valid decision making process.”

Learned counsel for the respondents are unable to deny that impugned orders in the present case indeed do not address the pleas raised on behalf of the petitioners. It cannot be said that these decisions are supported by reasons leave alone cogent, clear and succinct ones.

Keeping in view the aforementioned, impugned orders dated 28.01.2019 and 28.02.2020 passed by the Collector and Commissioner, respectively, are set aside. Matter is remitted to the learned Collector-cum-District Development and Panchayat Officer, Amritsar for deciding the matter afresh after affording proper opportunity of hearing to all concerned parties and by passing a reasoned and speaking order.

Writ petition is disposed of accordingly.

It is clarified that there is no expression of opinion on the merits of the case.

(LISA GILL)
JUDGE

(HARSH BUNGER)
JUDGE

September 21 , 2022.
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No