

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

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CIVIL WRIT PETITION NO.13907 OF 2022
DATE OF DECISION: JULY 04, 2022

Gram Panchayat Village Sangheri, District Mansa

.....Petitioner

VERSUS

State of Punjab and others

....Respondents

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

Present: Mr. Pankaj Garg, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASIH, J.

Gram Panchayat, Village Sangheri, District Mansa, has approached this court, praying for issuance of a writ of certiorari for quashing the order dated 08.02.1988 (Annexure P-4) passed by the Commissioner, Ferozepur Division, Ferozepur, whereby the appeal preferred by the private respondent Nos.3 to 8 had been allowed by setting-aside the order dated 09.01.1985 passed by the District Development and Panchayat Officer, Bathinda, exercising the powers of the Collector, ordering eviction of the private respondents in a petition preferred under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short, “the 1961 Act”).

Straightway a question was put to counsel for the petitioner as to what would be the explanation on the part of the petitioner-Gram Panchayat in challenging the order passed on 08.02.1988 after an inordinate

delay of 34 years. The counsel does not have any explanation. The only submission, which is being sought to be projected, is that the Commissioner, Ferozepur Division, Ferozepur, did not have the jurisdiction to pass an order dated 08.02.1988 and, therefore, the said order would be null and void. When confronted with the statutory provisions, the counsel has not been able to substantiate the same. In any case, we called upon him to address the Court on merits as well but find no ground for interfering in the order on merits also.

In brief, it may be stated here that the appellate authority in the appeal as preferred by the private respondents has culled out a point, on which the case of the Gram Panchayat for eviction hinges is that the land was given to the forefather of the private respondents by the village community on the condition that they would hand over the land back to the village community if they ceased to provide artisan services as carpenter and blacksmith to the village community and that since these private respondents have ceased to provide such artisan services, they are liable to be evicted from the land. Therefore, the onus was on the Gram Panchayat to establish that there was any stipulation at the time of allotment of land to the forefathers of the private respondents by the village community that the moment they ceased to provide the artisan services to the village community, they were liable to be evicted from the land. Admittedly, no such evidence has come on record nor is there any documentary proof/revenue record, which would establish or even indicate such a conditional allotment to the forefathers of the private respondents and, therefore, the plea of the Gram Panchayat, seeking eviction of the private respondents from the land in question cannot be accepted.

That apart, there is nothing on record, which would even substantiate that none of the persons who had inherited the land from the forefathers is pursuing and providing artisan services to the village community. Merely because some of the family members have adopted some other professions does not in itself mean that the said persons are liable to be evicted from the land in question, especially when nothing has come on record, which would indicate that it was a conditional allotment of land to the forefathers.

Rather, the findings, as returned by the authority below is that the forefathers of the private respondents had been cultivating the land since more than 12 years before the commencement of the 1961 Act is neither disputed nor is it in question that the said respondents had never paid anything to the Gram Panchayat as rent or share of the produce. They had, however, been paying land revenue like other land owners.

The forefathers of the private respondents have been occupying the land much prior to the period of 12 years before the commencement of the 1961 Act and, thus, they cannot be said to be in unauthorized occupation of the land and, therefore, they are not liable to be evicted from the land being unauthorized occupants.

We, therefore, dismiss the writ petition on the question of delay and laches as also on merits.

(AUGUSTINE GEORGE MASIH)

JUDGE

July 04, 2022

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(SANDEEP MOUDGIL)

JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No