

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

1. Civil Writ Petition No. 10744 of 2017(O&M)
Date of Decision: December 08 , 2022.

Surju @ Suraj Bhan PETITIONER(s)

Versus

Joint Development Commissioner, Punjab and others
..... RESPONDENT (s)

2. Civil Writ Petition No. 10892 of 2017(O&M).

Rampal PETITIONER(s)

Versus

Joint Development Commissioner, Punjab and others
..... RESPONDENT (s)

3. Civil Writ Petition No. 10895 of 2017(O&M).

Baljit Singh PETITIONER(s)

Versus

Joint Development Commissioner, Punjab and others
..... RESPONDENT (s)

4. Civil Writ Petition No. 10937 of 2017(O&M).

Prem Singh PETITIONER(s)

Versus

Joint Development Commissioner, Punjab and others
..... RESPONDENT (s)

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

Present: Mr. A.S.Salar, Advocate
for the petitioner(s).

Mr. K.S.Kang, Sr. DAG, Punjab.

Mr. KDS Sidhu, Advocate
for respondent No.2 - Gram Panchayat.

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.

This order shall dispose of CWP No.10744 of 2017 (Surju @ Suraj Bhan v. Joint Development Commissioner and others), CWP No.10892 of 2017 (Rampal v. Joint Development Commissioner and others), CWP No.10895 of 2017 (Baljit Singh v. Joint Development Commissioner and others) and CWP No.10937 of 2017 (Prem Singh v. Joint Development Commissioner and others).

In all the writ petitions, petition (s) under Sections 4 and 5 of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 (for short, '1973 Act'), filed by respondent-Gram Panchayat against petitioner(s) herein was/were allowed vide separate orders of even date i.e., 14.10.2016 by respondent No.3 – District Development and Panchayat Officer, Sangrur (exercising the powers of Collector). Appeal(s) filed by the petitioner(s) was/were decided by a common order dated 09.02.2017 passed by respondent No.1 – Joint Development Commissioner (exercising the powers of Commissioner). Therefore, on request and with consent of learned counsel for the parties all the abovenoted writ petitions are taken up together for hearing and decision.

For the sake of convenience facts are being extracted from CWP

No.10744 of 2017.

Respondent-Gram Panchayat filed a petition under Sections 4 and 5 of the 1973 Act seeking ejectment of the petitioner with the assertion that the management and control of the land, in question, vested with the Gram Panchayat. The petitioners, it is stated, forcibly and illegally occupied the land in dispute. It is further stated that demarcation of the land was conducted and as per demarcation report 26.06.2015, petitioner was found in illegal possession thereof. The petition under Sections 4 and 5 of the 1973 Act was contested by the present petitioners while claiming that land in question did not vest with the Gram Panchayat and that the petitioners were in possession of the same since 1950. Petitions filed by the Gram Panchayat were allowed by the District Development and Panchayat Officer (exercising the powers of Collector) vide order dated 14.10.2016. Appeal preferred by the petitioner was dismissed by the Joint Development Commissioner, Punjab (exercising the powers of Commissioner) vide order dated 09.02.2017. It was observed by the Appellate Authority that possession of the land in question had been taken by the Gram Panchayat and further given under open auction, therefore, the appeal was dismissed as infructuous. Aggrieved therefrom, present writ petitions were filed.

Heard learned counsel for the parties and have gone through the files with their able assistance.

Learned counsel for the petitioners submits that order directing ejectment of the petitioners itself is illegal and arbitrary inasmuch as there is no material on record to indicate that the Gram Panchayat is the owner of the land

or that the land in question was used for any common purpose for the inhabitants of the village. It is submitted that the land in question is described as 'Jumla Mushtarka Malkan Hasb Rasad Raqba Khewat' and possession thereof is of its proprietors (Makbooja Malkan). Learned counsel for the petitioners argued that order dated 09.02.2017 has been passed in an absolutely illegal manner. Appeal challenging order dated 14.10.2016 was listed for hearing on 08.02.2017. After hearing the counsel for the petitioners, notice was issued to the respondents therein for 18.03.2017 and status quo regarding possession was directed to be maintained by the Appellate Authority. It is asserted that when counsel for the petitioners reached at his residence, he received a call that the case would be heard on 09.02.2017 instead of 18.03.2017. The impugned order dismissing appeal of the petitioner was passed hastily on 09.02.2017 itself though in the presence of counsel for the petitioner as well as of the Gram Panchayat. It is thus prayed that these writ petitions be allowed.

Arguments raised by learned counsel for the petitioners have been refuted by learned counsel for the respondents. It is submitted that possession of the land, in question, was taken in accordance with law and was with the Gram Panchayat on 08.02.2017, therefore, appeal of the petitioners was rightly dismissed as infructuous. Ejectment of the petitioners from the Gram Panchayat land, it is stated, was correctly ordered. It is, thus, prayed that these writ petitions be dismissed.

Learned counsel for the petitioners is unable to point out any document on record to indicate possession of the petitioners prior to 1950 as is pleaded. Reference to the Jambandies for the years 1941-42 and 1953-54

(attached as Annexures P7 and P8 with CWP No.10744 of 2017) is of no avail to the petitioners as there is no document on record to indicate that the land which is reflected to be in possession of Shanker – Desa, stated to be the predecessor-in-interest of the petitioners, is the same land from which ejectment of the petitioners has been ordered. Learned counsel for the petitioners on a pointed query is unable to refer to any such document and further informs that no proceedings till date have been initiated by the petitioners claiming title to the property. It is a settled position that the land being Jumla Mushtarka land, its control and management vests with the Gram Panchayat. Thus, the Gram Panchayat was well within its right to seek ejectment of the petitioners.

At this stage, it is relevant to note that it is not denied by learned counsel for the petitioners that possession of the land in question is indeed with the respondent-Gram Panchayat even though it is stated by learned counsel for the petitioners that this land has not been put to any use by the Gram Panchayat. Categorical stand of respondent-Gram Panchayat is that possession of the land in question was taken over and was with the Gram Panchayat at the time of passing of impugned order dated 09.02.2017 and that in the following year it was given on lease by the Gram Panchayat through an open auction. Subsequently it was resolved by the Gram Panchayat that trees shall be planted on the land in question and in fact tree plantation was carried out. It is categorically denied that any of the petitioners were in possession of the land in dispute since or before 1950.

Keeping in view the facts and circumstances as above, we find no ground, whatsoever, to interfere in the present writ petitions. Impugned orders

dated 14.10.2016 and 09.02.2017 passed by respondent No.3-District Development and Panchayat Officer, Sangrur (exercising the powers of Collector) and respondent No.1-Joint Development Commissioner (exercising the powers of Commissioner), respectively, are upheld.

No other argument has been raised.

All four writ petitions are, accordingly, dismissed with no order as cost.

**(LISA GILL)
JUDGE**

December 08 , 2022.
'om'

**(RITU TAGORE)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No