

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

**CWP-16466-2022 (O&M)
Date of Decision: 13.12.2022**

PURAN SINGH Petitioner(s)
Versus
STATE OF HARYANA AND OTHERS Respondent(s)

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

Present: Mr. Vineet Chaudhary, Advocate
for the petitioners.

LISA GILL, J.

CM-11191-CWP-2022

For the reasons mentioned in the application as well as arguments addressed, leave to file this writ petition without registration as Advocate on Roll, is granted, subject to just exceptions.

Application is accordingly disposed of.

CM-19835-CWP-2022

Documents, Annexures P-13 and P-14, are taken on record, subject to just exceptions.

Application is disposed of.

CWP-16466-2022

Prayer in this writ petition is for setting aside order dated 30.12.1994 (Annexure P-1), passed by respondent no.4-Assistant Collector Ist Grade, Kaithal, whereby petition under Section 7(2) of the Punjab Village Common Lands (Regulation) Act, 1961 now the Haryana Village Common Lands (Regulation) Act, 1961 as notified on 05.04.2021 (hereinafter

referred to as the '1961 Act'), filed by the respondent-Gram Panchayat was allowed and ejectment of the petitioner ordered. Petitioner has also challenged orders dated 24.05.2016 (Annexure P-5), passed by respondent No.3-Collector, Kaithal and order dated 19.05.2022 (Annexure P-7), passed by respondent no.2-Commissioner, Ambala Division, Ambala, whereby appeal and revision filed by the petitioner have been dismissed.

Brief facts necessary for adjudication of this matter are that respondent-Gram Panchayat filed the petition under Section 7(2) of the 1961 Act, with the averments that land in question i.e. land measuring 19 Kanal 19 Marla, comprised in Khasra No.190 was given on lease to the present petitioner in the year 1987-1988 for one year. Term of the lease was not extended but on its expiry in 1988, petitioner did not hand over vacant peaceful possession thereof and continued to remain in unauthorized possession despite repeated demands. The petition was contested by the present petitioner with the assertion that land in question is not proved to be *Shamilat Deh*. An earlier application for ejectment was dismissed for non-prosecution, therefore, subsequent application under Section 7(2) of the 1961 Act was claimed to be not maintainable.

Assistant Collector, 1st Grade, Kaithal vide order dated 30.12.1994 allowed the petition under Section 7(2) of the 1961 act, filed by the respondent-Gram Panchayat, holding the land in dispute to be *Shamilat Deh*, which had been given on lease to the petitioner for the year 1987-1988. Ejectment of petitioner from the land in dispute was ordered with compensation of Rs.10,000/- per hectare per year to be paid to the Gram Panchayat.

Appeal filed by petitioner challenging order dated 30.12.1994

was accepted by the Collector, Kaithal vide order dated 08.04.1997 while holding that the Gram Panchayat did not produce any proof to prove the land in dispute comes within the definition of *Shamilat Deh*. Therefore, the Gram Panchayat ought to have filed the application for ejectment under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (hereinafter referred to as the P.P. Act).

Respondent- Gram Panchayat challenged order dated 08.04.1997 (Annexure P-2), which was decided by the Commissioner, Ambala Division vide order dated 09.05.2014 (Annexure P-3) on the ground that interest of the Gram Panchayat cannot be permitted to be prejudiced on the technical aspect of ejectment application not being filed under the P.P. Act, therefore, the matter was remanded to the Collector, Kaithal, to decide the same on merits, after affording opportunity of hearing to the parties.

Order dated 09.05.2014 passed by the Commissioner, Ambala Division was challenged by petitioner by way of CWP-17739-2014. However, impugned order dated 09.05.2014 was not interfered with while clarifying that petitioner would be at liberty to re-agitate the matter before the Collector, Kaithal on the ground that the order under challenge shall not cause any prejudice to him.

The matter was thereafter decided by the Collector, Kaithal vide order dated 24.05.2016, yet again ordering ejectment of the petitioner. Revision petition was filed by the petitioner challenging said order dated 24.05.2016, which was decided by the Commissioner, Ambala Division on 19.05.2022, upholding ejectment of the petitioner and affirming the finding that land in question had been given to the petitioner on lease only for one

year, thus, petitioner is in illegal possession of land in question. Aggrieved therefrom present writ petition has been filed.

Learned counsel for the petitioner submits that though ownership of the Gram Panchayat over land in question is not disputed, land in question cannot be described as *Shamilat Deh*, therefore Section 7 of the 1961 Act was not attracted. Petitioner claimed that he was in possession of land as *Gair Marusi*. Moreover, revision petition filed by the respondent-Gram Panchayat challenging order dated 08.04.1997 was highly belated having been filed in August, 2011 and that no reason whatsoever had been given for the delay. Land in question, it is further submitted, was never proved to be *Shamilat Deh* or that it was used for common purposes of the village. The impugned orders, it is contended, have been passed with undue haste, causing manifest injustice to the petitioner. Learned counsel for the petitioner asserts that petitioner has been in cultivating possession of land in question as *Gair Marusi*. Reference is made to the *Jamabandis* for the year 2007-2008 and 2012-2013 as well as *Khasra Girdawari* for *Khariff* 2015 and *Rabi* 2016. It is submitted that petitioner has subsequently filed a petition under Section 13-A of the 1961 Act in the year 2019.

We have heard learned counsel for the petitioner and have gone through the file with his able assistance.

The consistent case of the respondent-Gram Panchayat has been that land in question was given on lease to the petitioner for a period of one year only. Thereafter, petitioner continued to remain in unauthorized possession thereof and despite request did not hand over possession of the Gram Panchayat land. Reference by learned counsel for the petitioner to the *Jamabandis* for the year 2007-2008 and 2012-2013 is of no avail to the

petitioner. Copy of the *Jamabandi* for the year 1987-1988 has subsequently been placed on record by the petitioner, which clearly indicates the petitioner to be a *Pattedar* (lease holder) and the entry in column no.4 regarding the ownership is of Gram Panchayat. Details of the quantum of rent is also mentioned in the said *Jamabandi*. Learned counsel for the petitioner is unable to indicate any document on record which would prove that petitioner came in possession of land in question other than by taking it on lease in the year 1987-1988. Argument that it is only a petition under the Public Premises Act, which ought to have been filed and petitioner cannot be evicted from land in the proceedings under Section 7 of the 1961 Act, is an argument devoid of any merit, hence rejected. This is so for the reason that there is no denial of land in question being of the Gram Panchayat.

It would indeed a travesty of law to allow the petitioner to continue to hold on the land in question merely on the ground as is sought to be projected. At this stage, it is useful to refer to decision of this High Court in **Ram Piari v. Joint Director Panchayats (Pb.)**, 1993(2) *RRR* 351 and **Rajdev Singh and another v. Joint Development Commissioner, Punjab and others**, 2012(2) *RCR (Civil)* 623. In the said cases, proceedings for ejectment of the unauthorized occupants in respect to the *Shamilat* land had been initiated in the Public Premises Act. The ground taken by unauthorized occupants was that it is only proceedings under Section 7 of the 1961 Act which could have been initiated and proceedings undertaken in the Public Premises Act are illegal. In the case of **Ram Piari** (supra) while holding that *Shamilat* land belonging to the Gram Panchayat is public premises, the proceedings under the Public Premises Act could not

be termed illegal. It was observed that;

“7. Under both the Acts, i.e., the Common Lands Act and the Eviction Act, the procedure for eviction from the shamilat deh or other Panchayat land is almost similar. The right to appeal is also the same. The procedure for determination of the dispute is also the same. The petitioners have not been able to show that the procedure of ejectment under Section 5 of the Eviction Act is in any way less favourable or more harsh to the petitioners. It is not shown that prejudice has been caused to the petitioners by recourse to the proceedings under Section 5 of the Eviction Act instead of the Common Lands Act.

8. After hearing the learned counsel for the petitioners, we are of the view that the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973, and the Punjab Village Common Lands (Regulation) Act, 1961; are special Acts and the Eviction Act does not exclude the application of the Common Lands Act. Unauthorized occupants can be evicted under both the Acts. The law at the present moment provides more than one remedy to a Panchayat for evicting the unauthorized occupants. Where two modes of eviction are provided and the Panchayat adopts one of the modes to eject an unauthorized occupant, which appears to the Panchayat to be more speedy, summary and effective, then it cannot be contended with any justification that the situation created offends against the right of a citizen as guaranteed to him under Article 14 of the Constitution of India. As Government forms a class by itself and a speedier and more effective procedure can be provided for the Government to take action against the unauthorized occupants of its property, what is true about the Government is equally true about a Gram Panchayat which is a unit of the local self Government.

9. It has been established in due enquiry held by the competent officer that the land, in dispute, belongs to the Gram Panchayat.

The petitioners singularly failed to establish that they were the owners of the land, in dispute. The land, in dispute, is owned by the Gram Panchayat. The petitioners were, therefore, clearly in unauthorized occupation of the land, in dispute.”

Going by the same analogy in the present case also, learned counsel for the petitioner has been unable to point out any document on record, which would indicate any right, whatsoever, which the petitioner has to continue in possession of the Gram Panchayat land.

In the given facts and circumstances, we do not find any ground, whatsoever, to interfere for setting aside the impugned orders, which are accordingly upheld.

No other argument has been addressed.

Writ petition is, accordingly, dismissed.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

13.12.2022

Sunil

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No