

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
103**

CWP-23434-2017

Date of Decision: April 27th, 2022

KEWAL KRISHAN

...PETITIONER

Versus

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

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

**Present: Mr. Vikram Singh, Advocate,
for the petitioner.**

**Mr. S.P.S.Tinna, Addl. A.G. Punjab,
for the State.**

**Ms. Sonia G. Singh, Advocate,
for respondent No. 4.**

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court impugning the order dated 11.08.2017 (Annexure P-5) passed by the Director, Rural Development and Panchayat-cum-Commissioner, Punjab-respondent No. 2 upholding the order of eviction dated 01.10.2013 (Annexure P-3) passed by the District Development and Panchayat Officer-cum-Collector, Jalandhar-respondent No. 3 preferred by the Gram Panchayat Bir Pind, Tehsil Nakodar, District Jalandhar-respondent No. 4 for ejection of the petitioner being in illegal possession of the Gram Panchayat land.

On 12.10.2017, when the case came up for hearing before this

Court, the Court had issued notice on a statement made by the counsel for the petitioner that the petitioner is ready to pay the market price of the subject land where he has been found in illegal possession.

In pursuance to this notice issued by the Court, reply on behalf of respondents No. 1 to 3 by way of affidavit of District Development and Panchayat Officer, District Jalandhar dated 29.11.2019 has been filed. Similarly, reply on behalf of respondent No. 4-Gram Panchayat has also been filed by the authorized Panch of the Gram Panchayat, wherein the stand taken is that the petitioner is not covered by the Policy dated 14.08.2008 as the said Policy is with regard to the landless workers whereas the petitioner holds approximately 10 Marla of land, of which he is the owner. The relevant provisions of the Policy dated 14.08.2008 have been reproduced therein and under the said provisions, the case of the petitioner would not be covered. The said eligibility criteria reads as follows:-

“1. Who will be entitled under this scheme.

- 1) The beneficiary under this scheme must have constructed residential house over the Shamlat land of Gram Panchayat land in the concerned gram sabha area and is registered as voter in the gram sabha area.
- 2) The beneficiary belongs to Scheduled Caste or Scheduled Tribe including Bazigar community.
- 3) The beneficiary under this scheme must be married or un-married above the age of 45 years.
- 4) The beneficiary should be landless worker.”

It has further been stated in the reply that this land, which is the subject matter of the present writ petition, is reserved for pond and in the

light of the judgment of the Hon'ble Supreme Court in Jagpal Singh and others vs. State of Punjab and others, 2011 (1) RCR (Civil), 912, the benefit, as has been claimed by the petitioner, cannot be granted to him. Reference has been made to para Nos. 22 and 23 of the said judgment, which reads as follows:-

“22. Before parting with this case we give directions to all the State Governments in the country that they should prepare scheme for eviction of illegal/unauthorized occupants of Gram Sabha/Gram Panchayat/Poramboke/Shamlat land and these must be restored to the Gram Sabha/Gram Panchayat for the common use of villagers of the village. For this purpose of the Chief Secretaries of all State Government/Union Territories in India are directed to do the needful, taking the help of other senior officers of the Governments. The said scheme should provide for the speedy eviction of such illegal occupant, after giving him a show cause notice and a brief hearing. Long duration of such illegal occupants or huge expenditure in making constructions thereon or political connections must not be treated as a justification for condoning this illegal act or for regularizing the illegal possession. Regularization should only be permitted in exceptional cases e.g. where lease has been granted under some Government notification to landless labourers or members of Scheduled Caste/Scheduled Tribes, or where there is already a school, dispensary or other public utility on the land.

23. Let a copy of this order be sent to all Chief Secretaries of all States and Union Territories in India who will ensure strict and prompt compliance of this order and submit compliance report to this Court from time to time.”

Learned counsel for the petitioner asserts that the petitioner is claiming the benefit under Rule 10 and Rule 12 (4) of the Punjab Village Common Lands (Regulation) Rules 1964. He contends that according to these rules, a resident of the village can be given/sold land for residential purposes. A perusal of these rules would show that the intent and purpose of selling the land by the Gram Panchayat is to help out the people who do not have any land. It is not intended to help the encroachers of the land of the Gram Panchayat. Otherwise the very purpose, for which the statutory provisions have been incorporated under The Punjab Village Common Lands (Regulation) Act, 1961 and the rules framed thereunder, would be rendered redundant.

That apart, it may be pointed out that the Courts cannot be a party to encourage illegal encroachment upon the Gram Panchayat land by regularizing or accepting such prayer, as has been made in the present writ petition, for purchasing the land of the Gram Panchayat which they have encroached. The position would have been different assuming the case of the petitioner would have been covered by the Policy, as has been framed by the Government of Punjab for the landless labourers or the Scheduled Caste or Scheduled Tribe.

Learned counsel for the petitioner states that the petitioner is a scheduled caste but since he does not fall in the landless category, this contention of the learned counsel for the petitioner cannot be accepted in the

light of the fact that the counsel has not been able to show any provision under the scheme which would entitle the petitioner to the benefit, as has been claimed by him.

The present writ petition being devoid of any merit, therefore, stands dismissed.

**(AUGUSTINE GEORGE MASIH)
JUDGE**

**(SANDEEP MOUDGIL)
JUDGE**

April 27th, 2022
pj

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