

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

CWP-19511-2022

Date of Decision: September 01, 2022

JIWAN SINGH

..... Petitioner

Versus

JOINT DEVELOPMENT COMMISSIONER AND ORS.

..... Respondents

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

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

Mr. Sandeep Jain, Addl. AG, Punjab.

LISA GILL, J.

Prayer in this writ petition is for setting aside order dated 09.05.2022 (Annexure P4) passed by learned Collector, Patiala, wherein warrants of possession have been issued on the basis of order dated 29.10.1980. It is submitted that petition under Section 11 of Punjab Village Common Lands (Regulation) Act, 1961 (for short – ‘the Act’) filed by the petitioner was dismissed on 07.12.2021. Appeal as well as application for stay is stated to be pending adjudication for 07.09.2022.

Learned counsel for the petitioner submits that order dated 09.05.2022 has purportedly been passed on the basis of order dated 29.10.1980 presuming that eviction of the petitioner was ordered therein. However, as per

order dated 29.10.1980, petition under Section 7 of the Act filed by Gram Sabha, Rajpura was in fact withdrawn on the statement of counsel for the Gram Sabha to the effect that certain documents could not be exhibited, therefore, petition be returned to file afresh. No subsequent petition under Section 7 of the Act has been filed but warrants of possession have been issued on 09.05.2022 on the basis of purported eviction order dated 29.10.1980. It is further submitted that in case eviction of the petitioner is ordered during pendency of his appeal and application for stay, the same would be rendered infructuous.

Advance copy of the writ petition has been supplied to the office of learned Advocate General. Mr. Sandeep Jain, Addl. AG, Punjab accepts notice on behalf of respondents No. 1 and 2.

Keeping in view the nature of order being passed and to obviate any delay and unnecessary expense in the matter, it is not necessary to issue notice to respondent No. 3.

It is not in dispute that appeal filed by the petitioner alongwith application of stay for dispossession is pending before learned Joint Development Commissioner, SAS Nagar, Mohali and is fixed for hearing on 07.09.2022. Petitioner claims to be in possession of land in dispute before 26.01.1950. Perusal of order dated 29.10.1980 reveals that petition under Section 7 of the Act was withdrawn by the Gram Panchayat with liberty to file afresh but warrants of possession have curiously been issued on 09.05.2022 on the basis of 'eviction order' dated 29.10.1980.

Keeping in view the facts and circumstances of the case but without expressing any opinion on the merits thereof, this writ petition is disposed of with a direction to learned Joint Development Commissioner, SAS Nagar, Mohali to decide appeal dated 10.02.2022 filed by the petitioner challenging order dated 07.12.2021 expeditiously and definitely within a period of three months from the date fixed before it.

Till then or till decision of application for interim relief, whichever is earlier, dispossession of the petitioner shall remain stayed.

(LISA GILL)
JUDGE

September 01, 2022

Rts

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No