

Date of Decision: September 22, 2022

..... Petitioner

The Director, Rural Development and Panchayat Office, Punjab and others Respondents

LISA GILL, J.

Prayer in this writ petition is for setting aside order dated 11.03.2022 (Annexure P3) passed by the learned Director, Rural Development and Panchayat Department, Punjab (exercising the powers of Commissioner) whereby appeal filed by respondents No. 2 to 7 has been allowed and order dated 11.10.2018 passed by learned District Development and Panchayat Officer-cum-Collector, Hoshiarpur has been set aside.

It is submitted that petitioner – Gram Panchayat filed petition under Section 7 of the Act seeking ejectment of respondents No. 2 to 7 from land measuring 1 kanal 6 marlas situated at village Dehriwal (Shekhpura Kalan) Block Bhunga, District Hoshiarpur. Learned Collector vide order dated 11.10.2018, ordered ejectment of the said respondents while concluding that

land in dispute is owned by the Gram Panchayat and possession of respondents No. 2 to 7 is proved to be illegal. Appeal filed by respondents No. 2 to 7 was, however, accepted by learned Commissioner vide impugned order dated 11.03.2022 with the observation that disputed land situated in khasra No. 39 is reserved for Adharmi caste and respondents No. 2 to 7 belonged to the said caste. Furthermore, they did not have any other land and were in possession of land measuring 5 marlas each, which was being used by them for residential houses. Therefore, appeal was accepted. Aggrieved therefrom, this writ petition has been filed.

Learned counsel for the petitioner argues that once it is established that respondents No. 2 to 7 are in illegal possession of the Gram Panchayat land, there is no question of extending any kind of benefit to permit them to continue in possession. It is contended that it is not open for the said respondents to encroach upon the Gram Panchayat land in this manner. Learned Commissioner has, thus, erroneously passed order dated 11.03.2022, which should be set aside.

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

The facts, as above, in respect to passing of order dated 11.10.2018 and it being set aside by the learned Commissioner vide impugned order dated 11.03.2022, is a matter of record. Learned counsel for the petitioner does not dispute that respondents No. 2 to 7 indeed belong to Adharmi caste

and furthermore said respondents are in possession of land measuring only five marlas, which is being used by them for residential purposes. It is affirmed and verified by learned counsel for the petitioner that respondents No. 2 to 7 are not in possession of any other land.

Keeping in view the facts and circumstances, we are of the considered opinion that in the given factual matrix, learned Director, Rural Development and Panchayat Department, Punjab (exercising the powers of Commissioner) has correctly observed as under:-

“ After perusing the written and oral arguments of the counsels of both the parties and as per the record of the lower court, I have come to the conclusion that as per the revenue records submitted by the Gram Panchayat, the disputed land is Khasra No. 39 which is reserved for Adharimi caste and the present appellants belong to Adharimi caste. Apart from this according to the report of the Naib Tehsildar attached with the appeal by the appellants, they do not have any land other than the disputed land. Apart from this, the appellants have proved that they are in possession of five Marla each of the disputed land and this place is being used by them as residential houses. Apart from this, the Panchayat did not stop them while building these houses and paved streets and drains were built in front of their houses. Apart from this, as per the Punjab Village common Lands Rules, 1964, the Gram Panchayat is bound to provide free housing to landless persons and according to the instructions issued by the government from time to time, five marla plots are given free of charge to the homeless persons for building their residential houses. Therefore, the appeal of the appellants is allowed and order dated 11.10.2018 passed by the lower court is hereby set aside.”

Learned counsel for the petitioner is unable to point out any illegality, infirmity or illegality in the impugned order dated 11.03.2022, which calls for interference by this Court.

Writ petition is, accordingly, dismissed.

(LISA GILL)
JUDGE

September 22, 2022
Rts

(HARSH BUNGER)
JUDGE

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