

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

136

**LPA-49-2022 & CMS-131 & 132-LPA-2022
DATE OF DECISION: MAY 17, 2022**

Devender Singh and others

.....Appellants

VERSUS

State of Haryana and others

....Respondents

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

**Present: Mr. Abhimanyu Singh, Advocate,
for the appellants.**

AUGUSTINE GEORGE MASIH, J.

CM-131-LPA-2022

Application is allowed as prayed for subject to all just exceptions.

Exemption is granted from filing certified copies of the annexures as also from typed copy of impugned order dated 27.10.2021.

LPA-49-2022 & CM-132-LPA-2022

Challenge in this appeal is to the judgment dated 27.10.2021 passed by the learned Single Judge, whereby the writ petition preferred by the appellants, challenging the orders passed by the revenue authorities, ordering correction of girdawari, has been dismissed.

It is the contention of learned counsel for the appellants that the learned Single Judge has failed to appreciate that the appellants were in possession of the land as *gair marusi*, which is reflected in the revenue records. They were in possession since 1982 and with the efflux of time had

acquired the occupancy rights. The revenue authorities did not have the jurisdiction and the authority to correct the girdawari of the land as the said land at present is of non-agriculture nature as there is a factory running at the site enclosed by it by erecting a boundary wall. The impugned order, thus, cannot sustain and deserves to be set-aside and the writ petition preferred by the appellants accepted.

We have considered the submissions made by counsel for the appellants and with his assistance have gone through the records of the case as also the pleadings but find ourselves not in a position to accept the same.

It is an admitted position that private respondent No.7-the Company is reflected as owner in possession of the land in question as per the jamabandi for the year 2002-2003, on which a factory has been built alongwith the boundary wall. The said factory was constructed after obtaining change of land use from the concerned Department of the Government on 05.07.1984. Predecessor-in-interest of the appellants, namely, Rambir @ Rajbir had himself appeared as a witness to the sale deed vide which the land was purchased by respondent No.7, establishing the fact that said Rambir @ Rajbir, who was a party before the revenue authorities when the case was filed, had relinquished the rights qua the land in question and , thus, had no right in the land in question.

That apart, the Assistant Collector visited the spot and found that on the land in question a factory stood built with a boundary wall, which was in possession of respondent No.7-Company. It has also come on record that as per the notification issued by the Financial Commissioner (Revenue) in the year 1991, the entry in the Khasra Girdawari, as per the possession on the basis of the spot inspection, is to be made by the Circle

Revenue Officer (C.R.O). Therefore, the order dated 04.09.2014 passed by the Collector was in accordance with law. Once it is an admitted position that the possession is in the hands of respondent No.7, the direction, as has been issued by the Collector, cannot be faulted with.

As regards the factum and assertion that the appellants are in possession of the land as *gair marusi* tenant, again is a fact which does not really hold the field for the simple reason that according to the appellants they came in possession of the land in the year 1982. This land has been purchased by respondent No.7-Company in the year 1984, where predecessor-in-interest of the appellants, Rambir @ Rajbir is himself a witness. Therefore, the right as claimed by the appellants, on the basis of the possession, cannot be accepted.

The findings, as returned on the basis of inspection at the spot, are not in dispute and, therefore, the impugned orders passed by the revenue authorities as also the judgment of the learned Single Judge cannot be faulted with.

In view of the above, there being no merit in the present appeal, the same stands dismissed.

As the main appeal stands dismissed, no orders are required to be passed on CM-132-LPA-2022, which is an application for stay.

(AUGUSTINE GEORGE MASIH)
JUDGE

May 17, 2022
khurmi

(SANDEEP MOUDGIL)
JUDGE

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