

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
111

CM-7227-2022 &
CWP-24810-2021

Date of Decision: May 11, 2022

INDERJIT SINGH

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

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

Present: Mr. Ashok Kumar Khanna, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASIH, J.

CM-7227-2022

C.M. is allowed subject to all just exceptions. Document (Annexure P-21) is taken on record and filing of certified/true typed copies of the same is dispensed with.

CWP-24810-2021

Challenge in this writ petition is to the order dated 09.06.2015 (Annexure P-15) passed by the Additional Deputy Commissioner-cum-Collector, Shaheed Bhagat Singh Nagar, Punjab-respondent No. 3 and order dated 10.05.2019 (Annexure P-18) passed by the Director, Rural Development and Panchayat Department, Punjab-respondent No. 2, whereby the suit for declaration that the petitioner was owner of the land in question under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as '1961 Act') stands dismissed as also the appeal respectively. Challenge has also been posed to the warrant of possession dated 07.01.2021 (Annexure P-17) issued in

pursuance to the above-referred to orders.

2. Counsel for the petitioner has asserted that the predecessors-in-interest of the petitioner have been in continuous cultivating possession of the land prior to 26.01.1950 and, therefore, the land cannot be said to be '*shamlat deh*' within the definition of Section 2 (g) of the 1961 Act.

3. It is further assertion of the counsel for the petitioner that the orders dated 29.10.2009 and 14.10.2011, which have been passed against the petitioner in the proceedings initiated by the Gram Panchayat under Section 7 of the 1961 Act for eviction, cannot be read into and relied upon in the proceedings preferred under Section 11 of the 1961 Act, which is the title suit and the petitioner was claiming himself to be the owner in cultivating possession of the land in question. It is asserted that the land in question is neither reserved nor used for any common purpose and, therefore, the said land cannot be said to be *shamlat* land. Prayer has, thus, been made for setting aside the impugned orders by allowing the writ petition.

4. On 03.02.2022, when the case had come up for hearing, this Court had called upon the counsel for the petitioner to place on record the revenue record and the pedigree table to establish the possession over the land, which is the subject matter of the writ petition, prior to 26.01.1950.

5. In pursuance to the said order, Annexure P-21 has been placed on record by the petitioner showing the pedigree table and the properties in question. A perusal of the same would show that the petitioner has been able to depict his possession up to Jamabandis 1968-69 and thereafter but nothing prior thereto. In the absence of the proof with regard to the predecessors-in-interest of the petitioner being in possession of the land

prior to the cut off date fixed for determining the lawful possession of the land to be not included in the *shamlat deh*, the plea of the petitioner cannot be accepted that he was in cultivating possession of the land prior to the specified date. Nothing has come on record which would establish the ownership of the petitioner over the land in question.

6. It need to be highlighted here that the petition under Section 11 of the 1961 Act was preferred by the petitioner, which is the title suit, claiming himself to be the owner seeking declaration to that effect. Parties have led their respective evidence and on the basis of the evidence led by the parties, i.e. the petitioner and the Gram Panchayat, Mirzapur, the authorities have come to a conclusion, vide the impugned orders, that the petitioner has failed to establish his title and, therefore, not entitled to the declaration, as has been prayed for.

7. It may not be out of way to mention here that the petitioner has claimed himself to have purchased the land from the *khewatdars* who were in cultivating possession of the same and, therefore, being their successor is the owner of the land in question.

8. It is an admitted position that the land was purchased by the petitioner in the year 1999 and, thus, qua the petitioner himself, as per the admitted position, he came in possession of the land in the year 1999. Prior thereto, as per the pleadings and the latest document, which has been placed on record as Annexure P-21 i.e. the pedigree table, qua the property, which includes the predecessors-in-interest of the petitioner, the possession of the land in dispute stands established with effect from the year 1968-69 onwards and not prior thereto.

9. In view of the above, finding no merit in the present writ

petition, the same stands dismissed.

(AUGUSTINE GEORGE MASIH)
JUDGE

(SANDEEP MOUDGIL)
JUDGE

May 11, 2022
pj

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No