

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

121

CWP-9222-2023

Date of Decision: 01.05.2023

Jeetu @ Jeet Singh and another

..... Petitioners

Versus

State of Haryana and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. Vikram Singh, Advocate
for the petitioners.

Mr. Raman Sharma, Addl. A.G. Haryana.

SURESHWAR THAKUR, J.(ORAL)

1. One Mohan Singh instituted case No. 95/S.D.O., on 17.02.2010, before the Assistant Collector 1st Grade, Gulha. In the said petition, he arrayed one Jeetu, Zila @ Leela and also the Gram Panchayat Mangera through its Sarpanch, thus as respondents. Through a decision made on the said *lis*, on 30.08.2011, by the learned Assistant Collector 1st Grade, Gulha vide Annexure P-1, the relief, as claimed therein, for evicting the co-respondents No. 1 & 2 from the petitions land, thus became granted.

2. An appeal bearing No. 02/2011/A was instituted thereagainst on 10.10.2011 before the learned Collector concerned, however, through a decision made thereon (Annexure P-3), the said appeal was also dismissed.

The dismissal of the above said appeal by the competent appellate authority,

led the petitioner to make a revision thereagainst before the revisional Court concerned. However, though a decision made on Case No. E.R. 633/2019 on 31.10.2019 (Annexure P-8), the said revision petition was also dismissed.

3. Therefore, against the concurrently made orders of eviction, the petitioners are led to institute the instant writ petition before this Court.

4. The learned counsel appearing for the petitioners, has argued, that there is a complete misreading and mis-appraisal, of the documentary evidence, as became placed before the learned authorities below. In making the above submission, he argues that the petitioners herein, were assigned the petition lands, as Bhondedar besides he also submits, that in a finalized consolidation scheme, the petition land became hence earmarked for the benefit of the Kumhar community. Therefore, he argues that the entry upon the petition lands of the petitioners was lawful and, thus, they were not required to be ejected therefrom, given their possession over the petition lands, thus being covered by Section 4(3)(ii) of the Punjab Village Commons Land (Regulation) Act, 1961, provisions whereof are extracted hereinafter :

“4. Vesting of rights in Panchayat and non-proprietors.-

XX XX XX XX

(3) Nothing contained in clause (a) of sub-section (1) and in sub section (2) shall affect or shall be deemed ever to have affected the ;-

XX XX XX XX

(ii) rights of persons in cultivating possession of *Shamilat deh*, for more than twelve years 1[immediately preceding the

commencement of this Act] without payment of rent or by payment of charges not exceeding the land revenue and cesses payable thereon.

XX XX XX XX”

5. However, for the reasons to be assigned hereinafter, the above arguments are completely misplaced. Primarily, for the simple reason, that even if assuming, the finalized consolidation scheme, did come to be placed before the competent authorities below, and assuming that it did, as submitted by the learned counsel for the petitioners, but display that the petition lands were earmarked for the Dholdars / Bhondedars. However, yet the petitioners became necessitated also to establish, before the learned authorities below, that the petitioners were persons belonging to the community of Kumhars. The adduction of the said apposite evidence, was but necessary for supporting the above made submission. Since the above relevant documents remained unplaced before the authorities below. Consequently, even if in the finalized consolidation scheme, the petition lands were earmarked, for the Kumhar community, yet for the want of petitioners further establishing, thus through their placing on record the relevant documents, thus suggestive that they were the members of the Kumhar community, and if so his further also establishing from the relevant documents, that their names became recorded therein as Bhondedar over the petition lands, thus necessarily the above submission loses its vigour.

6. Secondly, since in the revenue record the petitioners status in respect of the petition land is displayed as Gairmarusi. Therefore, the said status is but a limited status and is liable to be terminated at any stage through the institution of an eviction petition. Moreover, the said status is antithetical to the above made argument by the learned State counsel.

7. Therefore, since the said entry in the revenue record remains unchallenged, therefore, want of challenge thereto, the presumption of truth which is to be assigned thereto, thus is to be construed to having an immense conclusivity.

8. In view of the above, the petition is dismissed, and, the impugned orders are upheld.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

01.05.2023

Satyawan

1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No