

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(I) CWP-10848-2007 (O&M)
Date of Decision: 11.04.2023

SATNAM SINGH
-Petitioner

V/S

JOINT DEVELOPMENT COMMISSIONER AND ORS.
-Respondents

(II) CWP-10849-2007 (O&M)

JASWANT SINGH
-Petitioner

V/S

JOINT DEVELOPMENT COMMISSIONER AND ORS.
-Respondents

(III) CWP-7175-2007 (O&M)

KEWAL SINGH
-Petitioner

V/S

JOINT DEVELOPMENT COMMISSIONER AND ORS.
-Respondents

(IV) CWP-10850-2007 (O&M)

GURMUKH SINGH AND ORS.
-Petitioners

V/S

JOINT DEVELOPMENT COMMISSIONER AND ORS.
-Respondents

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

Argued by: Dr. Anmol Rattan Sidhu, Sr. Advocate assisted by
Mr. Suvir Sidhu, Advocate
Ms. Mandeep Kaur, Advocate

Mr. Arun Kumar, Advocate, and
Mr. Gursher Singh Dhillon, Advocate
for the petitioner(s).

Ms. Monika Jalota, Sr. DAG, Punjab.

SURESHWAR THAKUR, J.

1. As almost similar facts, besides, similar questions of law arise in all these writ petitions, i.e. CWP-10848-2007, CWP-10849-2007, CWP-7175-2007, and, CWP-10850-2007, therefore, they are being decided and disposed of by this common judgment. For brevity, the facts are being extracted from CWP-10848-2007.

2. Through the instant writ petition, the petitioner prays for the relief of quashing of the impugned orders, which are respectively embodied in Annexures P-22, and, P-24.

FACTUAL BACKGROUND

3. The Gram Panchayat Village Chakoki, Sub-Tehsil Dhilwan, District Kapurthala, through its Sarpanch, instituted against, one Satnam Singh, a petition under Sections 11, and, 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as the 'Act of 1961' for short). In the petition (supra), the Gram Panchayat concerned, claimed a declaratory relief qua its being declared owner in possession of the petition land(s), besides, also claimed therein a further relief for eviction of Satnam Singh, respondent therein, from the petition land(s). The learned Collector concerned, through an order made on 25.10.2005, upon, petition bearing No.34/ADC (Dev.) of 2005, after evaluation of the entire evidence, as became adduced before it, made a conclusion, that the assertion, as made by

the respondent, one Satnam Singh, that he assumed the possession of the petition land(s) prior to 1950, and/or, that he was a valid allottee of the petition land(s) from the custodian concerned, was but a pretextual or a false plea raised by above Satnam Singh. Contrarily, the learned Collector concerned, made a conclusion, that the respondent, one Satnam Singh, had taken the petition land(s) on lease, but, after expiry of the tenure of the lease, especially when he did not hand over the vacant possession of the petition land(s) to the Gram Panchayat concerned, thus became amenable to hand over the vacant possession thereof, to the Gram Panchayat concerned. Obviously, the learned Collector concerned, declared the Gram Panchayat to be a valid owner of the petition land(s).

4. However, the respondent in the petition (supra), one Satnam Singh, became aggrieved from the decision, as enclosed in Annexure P-22, and, was led to institute thereagainst, an appeal bearing No.182 of 2005, before the Joint Development Commissioner, Punjab, Chandigarh. The above apposite statutory appeal was decided through an order made thereon, on 07.06.2006, and, which becomes enclosed in Annexure P-24. A reading of Annexure P-24 discloses, that in its operative part, the learned appellate authority concerned, after dismissing the apposite statutory appeal, rather proceeded to affirm the order, as became initially rendered by the learned Collector concerned, whereby, the latter allowed the petition (supra), as became preferred before it, by the petitioner therein, i.e. Gram Panchayat concerned.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE

PETITIONER

5. The learned counsel appearing for the petitioner, has made an argument, that both the statutory authorities below, making a concurrent conclusion that the petitioner herein, is a Chakotedar of the petition land(s), is a misplaced conclusion. He submits that, since as revealed by Annexure P-12, in a lis, inter se the Gram Panchayat V/s Director, Consolidation of Holdings, Punjab, the hereinafter extracted directions were made by the Hon'ble Apex Court, therefore, he argues, that the jurisdiction to decide the question of title vested not in the authorities contemplated in the Act of 1961, but, the relevant jurisdiction vested in the authorities contemplated in The East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (hereinafter referred to as the 'Act of 1948' for short).

“We have heard ld. Counsel for the parties. The Director (Consolidation) has remanded the case to the Consolidation Officer as early as on 4th June, 1996. These special leave petitions have put that order in issue. Ld. Counsel for the petitioner submits that under the relevant statutes applicable to Punjab, the land in question vests in the Panchayat. He submits that he may be permitted to raise this plea before the Consolidation Officer. The request is justified. The petitioners shall be at liberty to raise all such pleas as are available to them before the Consolidation Officer, including the plea that the land vests in Panchayat and, therefore, the authorities under the Act have no jurisdiction to deal with the matter. With this observation, the special leave petitions are dismissed.”

REASONS FOR REJECTING THE ABOVE SUBMISSION

6. The above made submission is completely misplaced, and, is liable to be rejected. The reason for rejecting the above submission, obviously ensues, from the learned counsel for the petitioner completely

misreading the above extracted order, as became made by the Hon'ble Apex Court. A deep, and, keen reading of the hereinabove extracted order, as became made by the Hon'ble Apex Court, does make revelations, qua the plea(s) with respect to an able adjudicatory empowerment to determine the question of title rather being available, to be raised before the consolidation officer. However, since the authorities under the Act of 1948, made a tenable decision, as enclosed in Annexure P-13, that where a question of title emerges amongst the contesting litigants, with respect to shamlat deh land(s), thereupon the able adjudicatory jurisdiction in respect thereof, is not vested, in the authorities contemplated in the Act of 1948, but, the able apposite adjudicatory jurisdiction rather is vested in the statutory authorities contemplated in the Act of 1961. Resultantly, when the said decision is within the contours of the unreversed judgment, as made by this Court in **CWP-2318-2002, titled 'Parkash Singh and others V. Joint Development Commissioner, Punjab and others'**, therefore, but obviously, neither there is any breach of the verdict (supra), as made by the Hon'ble Apex Court, nor, there is any breach of the unreversed verdict, as made in Parkash Singh's case (supra), rather by the authorities contemplated in the Act of 1948, hence in theirs declining to make an adjudication upon a question of title, hence emerging, in respect of shamlat deh lands. Thus necessarily the able jurisdiction to make an effective adjudication thereon, but was not vested in the authorities under the Act of 1948, but, as tenably concluded became vested in the statutory authorities contemplated under the Act of 1961.

CONCLUSION

7. The learned counsel appearing for the petitioner has, except for the above made submission, rather not made any further attempt to erode the efficacy of the conclusions, and, inferences (supra), as became drawn by both the authorities below, in theirs concurrently concluding, that there was no vestige of title as owners in the petitioner herein. Preponderantly forthright evidence of the petitioner, being a Chakotedar over the petition land(s), remained unimpeached as well as undislodged, through adduction of any cogent rebuttal evidence thereto. Therefore, the said evidence acquires conclusivity, and, but is required to be revered. Resultantly, when the status of the petitioner, on the petition land(s), was but a limited status as a Chakotedar, or, as a tenant, therefore, on expiry of the tenure of lease, he was amenable to be evicted from the panchayat land(s).

7. Therefore, as a sequel to the above, this Court does not find any merit in the instant writ petition(s), and, it accordingly stands **dismissed**, and, the orders impugned in the instant writ petition(s) are affirmed and maintained.

8. All pending application(s), if any, stand disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

11.04.2023
devinder

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