

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

CWP-9826-2020

Decided on 17.11.2023

Karam Singh

...Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Vikas Singh, Advocate, for the petitioner.

Ms. Akshita Chauhan, Deputy Advocate General, Punjab.

Mr.S.S.Swaich, Advocate, for respondent No.5.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the order dated 22.05.2020 (Annexure P-7) passed by respondent No.2, whereby, he has directed respondent No.3 to take necessary action against the petitioner and his brothers as the same is in contrary to the decree of the Civil Court dated 11.07.2014 (Annexure P-4) and in violation of Articles 14 and 21 of the Constitution of India.

It has been contended by learned counsel for the petitioner that petitioner is in possession of 69 kanals of land situated at village Sabhra, Tehsil Patti, District Tran Taran. He submits that possession of the petitioner was also recorded in *jamabandi* for the years 2004-2005 as well as 2009-2010. He submits that earlier this land was recorded as the ownership of the Gram Panchayat but the proprietors filed a civil suit stating that the land had wrongly been shown in ownership of the Gram Panchayat. It is submitted that the said suit was decreed on 11.07.1997 and the land was ordered to be entered in the name of *Mushtarka Malkan Hasab Hissis Rakba Khewat*. He submits that on

14.06.2011, the petitioner alongwith his brother filed a civil suit for permanent injunction as the Panchayat was threatening to interfere in their possession and the civil suit was decreed on 11.07.2014. He has submitted that on 06.03.2018, a notice was sent through counsel by the brother of the petitioner as actions were being taken by the authorities to allot the plots from the land in possession of the petitioner and his brother. It is submitted that on 12.03.2018, an application under Order 21 Rule 3 CPC was filed by the brother of the petitioner on account of the violation of the decree. He has submitted that the impugned order dated 22.05.2020 has been passed by respondent No.2 whereby he has directed respondent No.3 to take necessary action against the petitioner and his brother. He submits that the impugned order passed is violative of Civil Court decree dated 11.07.2014. He has submitted that the petitioners are in possession of the land as on date and thus, the impugned order deserves to be set aside.

Notice was issued in this case and the State has filed the reply. Vide order dated 19.10.2023, BDPO, Patti was directed to be present in Court.

Reply by way of affidavit of Gurmukh Singh, Block Development and Panchayat Officer, Patti, Tarn Taran filed in Court is taken on record.

Learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner. It has been submitted that the petitioner has intentionally and deliberately concealed the material facts from the Court. It is submitted that eviction order dated 16.04.2010 was passed by the Collector-cum-DDPO under Section 7 of the Punjab Village Common Lands Act, 1961 against the petitioner and his brothers. Copy of the eviction order has been placed on record as Annexure R-1. It is further submitted that in pursuance to the eviction order dated 16.04.2010, Gram Panchayat-respondent

No.5 has already taken the possession of the land measuring 46 Kanal 7 Marla in due course of law. She submits that the land was re-auctioned by the Gram Panchayat-respondent No.5 in favour of Ninder Singh son of Kartar Singh for lease amount of Rs.50,000/-. It has been submitted that resolution dated 25.06.2020 has also been passed by the Gram Panchayat and now the said leasee is in the possession of the said land measuring 46 Kanal 7 Marla, however, counsel for the petitioner has submitted that the petitioner is in possession of the disputed land.

Mr.Dilbagh Singh, BDPO, Patti is present in Court and apprised the Court that possession of the land has already been taken and the same has been delivered to the Gram Panchayat. He has submitted that the land is further re-auctioned. He has submitted that the averment made by the counsel for the petitioner regarding the possession of the land is factually incorrect as the possession has already been taken from the petitioner in due course of law.

It has been submitted by learned State counsel that the petition being devoid of any merit, deserves to be dismissed.

Heard.

After hearing learned counsel for the parties and perusing the record, it is apparent that though earlier the petitioner was in possession of the property as leasee but thereafter, the possession was taken away from the petitioner and the land was further re-auctioned. This Court even gave an offer to counsel for the petitioner regarding appointment of the Local Commissioner for verifying the possession on the property. However, learned counsel for the petitioner has fairly submitted before this Court that the petitioner has not agreed for the appointment of Local Commissioner. As submitted by learned State counsel, possession of the property has already been taken from the

petitioner in due course of law and it is further re-auctioned. Thus, this Court does not find any merit in the submissions made by counsel for the petitioner and hence, the present petition being devoid of any merit is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

17.11.2023
sharmila

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No