

118

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

**CWP-12121-2023**

**Date of Decision : 30.05.2023**

CHATAN AND OTHERS

.....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)**

**Factual Background**

1. The Gram Secretary/BDPO concerned, issued, upon the petitioners herein notice(s) (Annexures P-2 to P-8) drawn under Section 24(1) of the Haryana Panchayati Raj Act, 1994 (in short 'the 1994 Act').

The contents of the said notices are extracted hereinbelow:-

*“ Whereas the Gram Panchayat has satisfied that Sh. Chatan son of Sh. Harsuka has illegally possessed over Panchayat lease Shop No. 11, Co-operative Wali on Shamlat land. While serving notice under Section 24 (I) of Haryana Panchayati Raj Act, 1994, you are hereby informed to remove the hindrance within 7 days i.e. from 29/04/2023 to 05/05/2023.*

*If you have any objection regarding the order of*

*Panchayat, then you can give your clarification before the Panchayat by appearing on 02/05/2023 at 11:00 in the Panchayat Ghar and if there is any evidence, also produce the same. If you failed to appear on the date fixed, then the Panchayat will take further action against you.”*

2. That to the said notice(s), the petitioners filed their respective replies wherein the petitioners submitted that they have been in possession of the shops in question for the past ten years and there is no default with regard to the rent at their end. They further plead that without considering their replies to the notice(s) (supra), further notice(s) (Annexures P-16 to P-22) under Section 24 (2) of 'the 1994 Act' have been untenably issued upon them seeking their eviction from the disputed lands.

**Submissions of the learned counsel for the petitioners.**

3. Learned counsel for the petitioners submits, that the petitioners cannot be evicted by issuance of notice(s) under Section 24 (2) of 'the 1994 Act', especially when the remedy available to the aggrieved concerned, is to through a petition cast under Section 7 or 13 A of the Haryana Village Common Lands (Regulation) Act, 1961 (for short 'the 1961 Act') before the learned Assistant Collector concerned, thus seek eviction of the encroachers concerned, from the disputed land. However, instead of recouring the remedy available to the Gram Panchayat concerned, yet notice(s) under Section 24(2) of 'the 1994 Act' have been untenably issued against the petitioners, rather for evicting them from the disputed land(s). Thus, they are led to institute thereagainst the instant writ petition, hence for seeking the quashing(s)/settings aside, of the notice(s)

(supra).

**Inference of this Court.**

4. Since this court while deciding CWP-19864-2020 and CWP-4656-2022, had summarized the hereinafter principles, which but cover the common thereto(s) questions of law, as are also involved in the present writ petition.

*(i) The exercising of jurisdiction by the Gram Panchayat concerned, through recouring the relevant mandate(s) of Section 24 of the 1994 Act, may be a validly adopted recourse, but only when prior to the makings of the apposite notice, a valid demarcation of the sites concerned, is conducted, and, such notice is validly served upon the respondents concerned.*

*(ii) The consequent thereto drawing(s) of actions against the encroachers concerned, who raise constructions, upon the vacant places within the abadi deh, may also be a validly drawing action(s), but only when even prior thereto a valid demarcation of the sites concerned, is conducted by competent Revenue Officer:*

*(iii) The proceedings drawn under Section 24 of the 1994 Act, are summary in nature, thus recourse thereto may be avoided by the Gram Panchayat concerned, especially when evidence in respect of the lands concerned, falling within or outside the ambit of the apposite inclusionary clause, is required to be adduced, and, when such evidence may surface, not in summary proceedings, but may surface in fully contested proceedings, launched under Section 7 or 11 of the Haryana Village Common Land (Regulation) Act, 1961.*

**Conclusion**

5. Thus, in view of the above summarized principles, it can be safely concluded that when the proceedings drawn under Section 24 of 'the 1994 Act', are but summary in nature, and, when but evidence, in respect

of encroachments being made upon the petition lands, may not surface in the said summary proceedings, but may surface only in fully contested proceedings, launched under Section 7 or 13 A of 'the 1961 Act'. Thus, the drawings of the notice(s) (supra) are construable to be made with the completest lack of application of mind and rather are rendered in a cryptic, slipshod and in an ill informed manner.

**Final order of this Court.**

6. For the reasons (Supra), the impugned notice(s) (supra) and consequential proceedings, if any, are quashed and set aside. However, the Gram Panchayat concerned, may hence though a petition cast upon under Section 7 or 13 A of 'the 1961 Act', before the Assistant Collector concerned, hence sought the eviction of the encroachers concerned from the lands concerned, rather than through the drawings of notice(s) (supra).

7. On such a petition being filed before the Assistant Collector concerned, the latter shall but in accordance with law, and, after an opportunity of hearing being given to all the concerned, hence make a decision thereons rather positively within six months of its preferment.

8. Till the said petition becomes instituted, thereupto the parties are directed to maintain status-quo in respect of the disputed/petition lands concerned. In case, the above petition becomes instituted before the Assistant Collector concerned, thereupon the respondents therein, may institute an application therein claiming an apposite interim relief, and, thereons a lawful order shall be promptly passed by the Assistant Collector concerned, but after granting an opportunity of hearing to all the concerned.

9. However, it is clarified that the quashing of the notice(s)

(supra) shall not be construed as an influencing consideration, by the Assistant Collector First Grade concerned.

10. With the afore observations, the petition stands disposed of.

(SURESHWAR THAKUR)  
JUDGE

30.05.2023

kavneet singh

(KULDEEP TIWARI)  
JUDGE

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