

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

101

CWP-18493-2019

Date of Decision:11.04.2023

Narain Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

**Present: Mr. Mohd. Yousaf, Advocate,
for the petitioner.**

Mr. Saurav Verma, Addl. A.G., Punjab.

VINOD S. BHARDWAJ , J.(Oral)

The instant petition has been filed for seeking issuance of directions to respondent Nos.1 and 2 to enquire into the matter and to take action against respondent Nos.4 to 44 for having misused their powers and for taking possession of the premises which the petitioner claims to have been lawfully put in possession of as a part of his employment.

Briefly summarized, the facts of the present case are that the petitioner claims to have been engaged as an Operator to run the water works(*tanki*) which was constructed over the Gurudwara land. He claims to have been given two rooms near the water *tanki* constructed over the Gurudwara land for taking care of the water *tanki* and other part of land. It is contended that the petitioner along with his family had been residing in

the said rooms since 1970 and now son of the petitioner is doing the said job. It is further contended that the Management of Gurudwara Prabhandak Committee had given him the said right in the year 2016 after acknowledging that the petitioner had been residing in the said rooms since 1970. The petitioner has no other land or house in the village or any where else. He claims that he is supporting his family with the income derived from the operation of the water works. The resolution passed by the Gurudwara Prabhandak Committee and the Panchayat dated 15.12.2016 has been attached as (Annexure P-1)(colly.). He has averred that on account of a party-faction in the village, respondent Nos.4 to 44 started threatening the petitioner with dire consequences and on 31.05.2019, they attacked the house of the petitioner and threw out the articles from his house after giving them beatings. He has purportedly placed certain photographs on record to show that respondent Nos.4 to 44 had thrown out the articles of the petitioner. It is contended that the petitioner having wrongfully dispossessed from the aforesaid premises ought to be put back in possession and action ought to be taken against the official respondent Nos.4 to 6 along with private respondents.

Reply on behalf of respondent No.3 by way of affidavit of Gurpreet Singh, Block Development and Panchayat Officer, Block Ludhiana-2, District Ludhiana had been filed. It was specifically stated in the said reply that the averments contained in the petition are false. The petitioner has claimed his age to be 60 years in the year i.e. 2019 at the time of filing of the present petition and submits that he was engaged as an Operator by the Gurudwara Prabhandak Committee in the year 1970. Accepting the aforesaid contention of the petitioner, he was approximately 8

to 10 years of age in the year 1970 and it is incomprehensible that a boy of such tender age would have been engaged by the Gurudwara Prabhandak Committee in their employment. It is further averred that there is nothing on record to suggest that the petitioner was ever engaged/appointed by the Gram Panchayat or Gurudwara Prabhandak Committee or to suggest that the petitioner had ever been put in possession of the aforesaid two rooms i.e. the place which is claimed by the petitioner to be residing in. In the absence of the petitioner having been put in lawful possession of the said premises, it cannot be perfected to be a lawful occupation. It is further averred in the aforesaid reply that the Gram Panchayat had constructed a new waterworks from where the water was being supplied to the entire village and a Community Centre was proposed to be constructed in the place where the old waterworks was situated. Accordingly, a resolution had been passed by the Gram Panchayat for removal of the illegal possession of the petitioner, however, the same was to no avail.

Accordingly, the Gram Panchayat submitted a resolution for seeking police assistance so as to get the Panchayat land vacated from the unauthorized/illegal possession of the petitioner. Reference is also made to various resolutions as well as notices issued by the Gram Panchayat requesting the petitioner to vacate the said premises for the development work of construction of the Community Centre. However, the petitioner did not do the needful. Hence, the Block Development & Panchayat Officer forwarded the resolution of the Gram Panchayat to the Station House Officer, Police Station Matthewara to provide police assistance for removal of illegal encroachment over the Panchayat land so that construction of Community Centre could be initiated. The presence of the police at the spot

was only to avoid any unforeseen/untoward incident.

Even though, the aforesaid written statement had been filed on 04.05.2022, however, no rejoinder/replication to the averments contained therein was filed by the petitioner. Hence, the statement of defence and the facts cited in the written statement remained un-controverted.

A separate affidavit of Surinder Pal, Assistant Commissioner of Police (East), Ludhiana on behalf of respondent Nos.1 and 2 had also been filed wherein he had reiterated the submissions noticed above and had pointed out that the Deputy Commissioner, Ludhiana had forwarded a letter No.2412/M.A. dated 13.03.2019 to respondent No.2-Commissioner of Police, Ludhiana vide which it has been mentioned that the land of Gram Panchayat, Village Mattewara at Old Water Tank bearing khasra No.155 had been unauthorizedly occupied by the petitioner by constructing a hut (Jhuggi) and that the Panchayat required the aforesaid land to construct a Community Centre on this place. The police help was thus provided to remove the illegal occupation of the petitioner on the said land. It was pursuant to such an order that the police personnel were deputed along with the Panchayat officers and the other residents of the locality. DDR No.7 dated 31.05.2019 was also duly lodged at Police Post Mattewara.

Learned counsel appearing on behalf of the petitioner argues that the respondents do not dispute the possession of the land over the premises in question and, as such, they could not have forcibly dispossessed the petitioner and in the absence of any order of eviction having been passed by the competent authority, the dispossession by the respondents is liable to be set aside and the petitioner should be put back in possession of the aforesaid premises.

Controverting the submissions advanced by the learned counsel for the petitioner, learned State Counsel submits that the petitioner has nowhere placed on record any proof to show that he had been lawfully put in possession of the aforesaid premises. He is a trespasser who encroached upon the Panchayat land. The development works of the Gram Panchayat were being stalled as a result of the said unauthorized encroachment. The Gram Panchayat had afforded adequate opportunity to the petitioner to vacate the premises in question. He further contends that, in any case, the land in question is stated to be owned by the Gurudwara Prabhandak Committee and the same being a private party, the writ petition would not be maintainable and the petitioner would have to avail the remedy to approach the competent civil court for seeking redressal of his grievance.

The petitioner had approached this Court levelling allegations against the police officials at the site and to portray as if possession of the land had been taken forcibly with the intervention of the police force. He submits that analogy of the events clearly shows that presence of the police personnel was on orders from the senior officers and on a request. It is not his case that the police has committed excess in using force/pressure against the petitioner while dispossessing him from the land in question.

I have heard learned counsel for the respective parties.

The petitioner does not dispute the fact that the land in question belongs to the Gurudwara Prabhandak Committee. Further, presence of the police force was requested by the Gram Panchayat vide a resolution passed in this regard and forwarded by the Deputy Commissioner, Ludhiana to the Commissioner of Police whereupon the police force was directed to remain present at the spot so as to avoid any untoward incident or any unforeseeable

circumstances at the site. It is thus not a case that the instrumentalities or agency of the State have abused their position or status. The dispute, if any, remains a dispute between the petitioner and the private respondent Nos.9 to 44. The institution of civil writ petition for resolution of a private dispute is not maintainable. Since this Court is not inclined to entertain the petition since an efficacious remedy is available to the petitioner, there is no reason to examine the respective merits. The same are thus not being commented upon, lest it may prejudice the rights of any party.

The writ petition is accordingly dismissed for the foregoing reasons.

However, the petitioner may, if so advised, take recourse to the alternative remedy(ies) as available to him, in accordance with law. The period during which the petition remained pending before the High Court shall be kept in mind also by the trial Court, if and when approached.

April 11, 2023
seema

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No