

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

CWP-17403-2022

Reserved on: 03.05.2023

Pronounced on: 12.05.2023

Satpal and Others

.....Petitioners

Versus

State of Haryana & Ors.

....Respondents

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

Argued by: Mr. Hardeep Singh Dhillon, Advocate
for the petitioners.

Mr. Parveen Mehta, DAG, Haryana.

Mr. M.S.Bhatti, Advocate
for respondent No. 6.

SURESHWAR THAKUR, J.

Factual Background.

1. Satpal and others instituted on 23.04.2010, a petition under Section 7(2) of the Punjab Village Common Lands (Regulation) Act, 1961, against Bakshish Singh and another. In the said petition, the petitioners claimed eviction of the contesting respondent No. 1 from the panchayat lands. The said petition became assigned file No. 143/SDO.
2. Through a decision made thereons on 16.12.2011 (Annexure P-3), the learned Assistant Collector First Grade, Pehowa decreed the said petition (supra), thereby ordering for the eviction of the contesting respondent No. 1, from the petition lands.
3. The above decision (Annexure P-3), resulted in the aggrieved therefrom instituting thereagainst an appeal before the

competent Appellate Authority concerned. However, the competent Appellate Authority concerned, through a decision made thereons on 12.12.2012 (Annexure P-2), declined the espoused relief to the appellant. Thus, affirmed the verdict, as became previously drawn by the learned Collector concerned (Annexure P-3).

4. Consequently, the aggrieved preferred thereagainst a revision petition before the Revisional Authority concerned. However, through a decision made on 12.04.2022 (Annexure P-1), upon the revision petition concerned, the Revisional Authority concerned, granted the espoused relief to the revisionist therein, respondent No. 6 herein, through its setting aside, the respectively made concurrent verdicts of eviction (Annexure P-3 and P-2), as made against the revisionist, respectively by the learned Assistant Collector, First Grade, Pehowa and the learned Collector, Kurukshetra.

5. The above made decision made by the learned Revisional Authority concerned (Annexure P-1), has caused pain to the petitioner(s), respondents therein, and has led them to institute thereagainst, the instant petition before this Court.

Inference of this Court.

6. A perusal of the jamabandis appertaining to the petition lands, as, relating to the year 2006-07, though reveals, that in the column of ownership thereof, the Gram Panchayat becomes entered, as such, but in the column of cultivation, one Bakshish Singh, who became subsequently substituted by his LRs, is shown as a *Gair Marusi* over the petition lands. Though the Assistant Collector concerned, and also the competent Appellate Authority concerned, in their respectively

Annexure P-2, thus, on the basis of the said jamabandi, made a conclusion that with one Bakshish Singh rather being entered as a *Gair Marusi* over the petition lands, thereupon, he has a limited status thereons. Necessarily, hence a consequent inference became drawn, that the above limited status over the petition lands, was amenable to be terminated through an eviction petition being drawn against him. As but a natural corollary thereof, the verdict of eviction, as became recorded respectively by the learned Assistant Collector First Grade, Pehowa and learned Collector, Kurukshetra, thus become ingrained with an aura of validity. The Revisional Court, while allowing the revision petition bearing No. 78 of 2013 (Annexure P-1), appears to have not borne in mind, the above reflections, as carried in the jamabandi relating to the petition lands and as appertaining to the year 2006-07. The Revisional Court appears to untenably conclude, that since the petition lands are recorded as *Jumla Mushtarka Malkan*, and that when in respect of such a revenue entry, the panchayat concerned, has only right of management and control thereof, but yet when the ownership thereof vests in the village proprietary body concerned. Therefore, it appears that the entry in the column of ownership, as carried in Annexure P-5, reflecting thus the Gram Panchayat concerned, to be owner of the petition lands, rather became not assigned any relevance.

7. The assigning of no reverence or making insignificant, the above revenue entry, and, that too without any challenge thereto becoming thrown by the petitioner, thus during the pendency of the petition, through the raising of a plea of title as owner over the petition

being purportedly owned by one Bakshish Singh also became not objectively decided to be a genuine or a validly raised dispute. Resultantly in the face of the above dispute, not being raised with respect to the validity of the making of the apposite entry in the apposite column of ownership, of the relevant jamabandi, wherein, the Gram Panchayat is displayed as owner of the petition lands, rather thereby it obviously became abandoned. Resultantly, it brings home a secured conclusion, that one Bakshish Singh, had acquiesced to the validity of an entry in the column of ownership, as carried in the relevant jamabandi, but exemplifying the Gram Panchayat to be owner of the disputed lands. Therefore, but obviously the Revisional Court could not yet proceed to allow Executive Petition (supra), but on the above surmisal premise, and that too without any cogent documentary evidence being placed on record, thus, displaying the entry of *Jumla Mushtarka Malkan* rather bestowed any vestige of any right, title or interest over the petition lands, in the petitioner. Conspicuously also when even the recorded entry of the respondent concerned, was that of a *gair marusi* over the petition lands. Since a presumption of truth is assignable to the said entry, whereas, the said presumption remaining undislodged, through adduction of cogent rebuttal evidence, thus the said presumption but acquires conclusivity. Therefore, the private respondent concerned, did hold, only a limited terminable status over the disputed lands.

Final Order

8. In aftermath, this Court finds merit in the writ petition, and, with the above observations, the same is allowed. The impugned order (Annexure P-1), as passed by the learned Revisional Court is

quashed and set aside and the orders (Annexure P-2 and P-3), passed by the statutory authorities below are maintained and affirmed.

9. No order as to costs.

(SURESHWAR THAKUR)
JUDGE

12.05.2023

kavneet singh

(KULDEEP TIWARI)
JUDGE

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