

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

CWP-16906-2020

Reserved on: 18.01.2023

Pronounced on: 27.01.2023

Narender Kumar and Others

.....Petitioners

Versus

State of Haryana and Others

.....Respondents

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

Argued by: Mr. Vikram Singh, Advocate
for the petitioners.

Mr. P.P.Chahar, DAG, Haryana.

Mr. Jagjeet Beniwal, Advocate
for respondent No. 5.

Mr. Raj Kumar Gupta, Advocate
for respondent No. 6.

SURESHWAR THAKUR, J.

Factual Background

1. Through the concurrently made verdicts respectively by the learned Assistant Collector First Grade, Hansi, the learned Collector, Hisar, and, the learned Divisional Commissioner, Hisar, as become respectively carried in Annexure P-11, Annexure 13, and, Annexure P-15, the petitioners were ordered to be evicted from the petition land.

2. The petitioners herein become aggrieved from the above made concurrently orders against them, and, are led to institute

thereagainst the instant petition before this Court.

3. The above concurrently made orders, were made on a petition made by one Ramesh against the respondents therein, who are the petitioners herein. The said petition was cast under Section 7 of the Punjab Village Common Land (Regulation) Act, 1961 (as applicable to the State of Haryana).

Claim of the petitioners

4. The sheet anchor or the plank of the petitioners, in the petition (supra), for claiming the eviction of the petitioners herein, from the land concerned, became founded upon the factum, that in the column of ownership, as carried in the revenue records concerned, the Gram Panchayat *deh* becoming recorded as owner, and, also in the column of cultivation, an entry of *Makbuja Gram Panchayat* rather occurring. Moreover, in the column of classification, the petition lands becoming described as *Banjar Kadim*. Therefore, it became contended that there was no vested right, title or interest whatsoever in the respondents to occupy the petition lands.

5. In the above petition, though the gram panchayat concerned, was arrayed as co-respondent No. 4, but the respondent No. 4 did not support the stand of co-respondents No. 1, 2 and 3, who were alleged to construct a house upon the *shamilat deh* land, which as stated above, was both in the column of ownership, as well as, in the column of cultivation, displayed by the revenue entries, to both become owned and cultivated by the Gram Panchayat concerned.

Inference of this Court

6. Though, the above entry has a presumption of truth, but the presumption of truth as assigned to the above revenue entries, is a

rebuttal presumption. However, the perusal of the records of the case does not disclose, that the said presumption of truth, as assigned to the above revenue entries rather becoming rebutted through adduction of cogent evidence, at the instance of the petitioners herein. Therefore, for want of adduction of cogent evidence to rebut the presumption of truth, as carried by the above revenue entries, begets a conclusion, that conclusivity is to be assigned to the truth of the above entries, as carried in the apposite revenue records. As but a natural corollary thereof, the petitioners were completely disabled to save the lands from vestment in the Gram Panchayat concerned.

7. However, a stray argument was raised, hence, that they are holding cultivating possession of the suit land, as *Gair Morausi*, but again the above stray argument also becomes unhinged, primarily on the ground, that the classification column describes the petition land as *Gair Mumkin*, therefore, ipso facto it became unamenable for becoming cultivated. Secondly, as but a natural corollary to the above drawn inference, any purported cultivation thereof, at the instance of the petitioners herein, though may have become well founded, but only through adduction of cogent evidence, comprised in the khasra girdawris concerned, displaying that a change happening in the description(s) assigned to the petition lands, in the classification column of the revenue records, inasmuch as, extantly the petition lands being brought to cultivation. However, even the above evidence did not become adduced. Therefore, when contrarily the petitioners rather than cultivating, the land through their sowing crops thereons, rather proceeded to raise a house thereons, which raising of a house thereons cannot to any reasonable man of ordinary prudence, be ever deemed to

be the makings of cultivation(s) of the petition lands. In aftermath, as above stated, the above made argument(s) becomes completely unhinged of the vigor, if any.

8. Since there is also no evidence on record suggestive that the petitioners herein held land adjoining to the petition lands, therefore the dispute whereons the contestants became embroiled, was not a *haad shikni dispute*, rather was as a dispute of an illegal house being constructed by the petitioners, on land to which they hold no lawful entitlement either as owners or as cultivators. Therefore, the concurrently made orders drawn by both the authorities below are but to be concluded to be validly drawn.

Principles of Law.

An entry of *Makbuja* Gram Panchayat, in the revenue records, both in the ownership and the cultivation column, does completely bar any member of the village proprietary body, to raise any construction thereons. The above revenue entry completely capacitates the Gram Panchayat concerned, to move an application seeking the eviction of the petitioner from the petition land. Therefore, the presumption of truth is assigned to the truth of above entries, especially when there no cogent evidence becomes adduced, for displacing the said presumption of truth, whereupon, conclusivity is to be assigned qua the truth of the above said entries.

Final Order

9. In consequence, this Court does not find any merit in the writ petition and is constrained to dismiss it. Nonetheless, if permissible under the relevant rules, the petitioners may within a fortnight from today, make a motion before the panchayat concerned, for sale to them

of the petition lands, whereafter the panchayat concerned, after hearing all concerned, shall make lawful orders/resolution thereons, whereafters' the panchayat concerned, shall promptly forward the same to the Competent Authority, for an approval thereto becoming granted but only in accordance with law. The above exercise be ensured to be positively concluded within three months from today.

10. Disposed of alongwith all pending applications, if any.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

27.01.2023

kavneet singh

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