

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

CWP-20282-2023

Date of decision: 13.09.2023

Puran Singh and others

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Rakesh Chopra, Advocate, for the petitioners.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the impugned order dated 23.03.2021 (Annexure P-1) passed by respondent No.3 and impugned order dated 06.06.2022 (Annexure P-2) passed by respondent No.2, as the same are illegal, perverse and without jurisdiction.

Learned counsel for the petitioner has submitted that the petitioners alongwith Balvir Singh filed a Civil Suit No.1884 of 18.01.2006 against respondent No.1 to 3 claiming relief of declaration to the effect that they are owners in exclusive possession of the land 16 (8-0) of Rectangle No.8 contained in Khewat Khatoni No.98/151 as per *Jamabandi* for the year 2003-04 (this land is in possession of the petitioners) and 17/2 (2-0) of Rectangle No.8 contained in Khewat Khatoni No.98/151 as per copy of *jamabandi* for the year 2003-04 (this land is in possession of above Balbir Singh). He submits that both the lands are situated in village Hussainpura, Tehsil Bassi Pathana, District Fatehgarh Sahib, in the alternative it was claimed that the petitioners and Balvir Singh continued to be joint possession of both the said lands respectively and they become owners by way of adverse possession on account of the fact that their ancestral Angan Singh was in possession since 01.06.1911.

He has submitted that after the death of Angan Singh, their possession over the land was tacked by way of adverse possession by Jaswant Singh and Bhag Singh both sons of Angan Singh. He submits that the suit filed by the petitioners was dismissed by the Court of then Civil Judge, Junior Division, Fatehgarh Sahib vide its judgment and decree dated 31.08.2015. He further submits that aggrieved by the same, petitioner No.1-Puran Singh and other defendants of the said suit filed two separate Civil Appeals No.40 of 11.02.2016 and No.156 of 17.12.2015, respectively before the Court of District Judge, Fatehgarh Sahib and the same were partly allowed by common judgment dated 15.05.2019 (Annexure P-5) by the learned Additional District Judge, Fatehgarh Sahib. He submits that thereafter, respondent No.1 through Tehsildar-cum-Assistant Collector Ist Grade, Fatehgarh Sahib filed a petition under Sections 4 and 5 of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act (for short, 'the Act') for ejectment of petitioners and other private persons i.e. respondents No.5 to 8, which was allowed by respondent No.3-Sub Divisional Magistrate-cum-Collector, Bassi Pathana vide order dated 23.03.2021 (Annexure P-1) though it was not maintainable. He submits that against the order dated 23.03.2021, petitioner No.1 filed an appeal under the Act before the Commissioner-cum-Deputy Commissioner, Fatehgarh Sahib, which was dismissed vide impugned order dated 06.06.2022 (Annexure P-2). He submits that the impugned orders passed are totally against the evidence on record and thus, being based on conjunctures and surmises are liable to be set aside. It is submitted that learned Additional District Judge has not considered that the petitioners were mortgagee over the disputed property. He submits that ejectment of the petitioners as held by the respondent-authorities without redeeming the property is totally illegal. He submits that a proper notice under

the Act has not been served upon the petitioners. He further submits that the respondent-authorities have failed to comply with the observations made by the Civil Court and hence, the impugned orders being unsustainable in the eyes of law, deserve to be set aside.

Heard.

After hearing learned counsel for the petitioners and perusing the record, it is apparent that petition under Sections 4 and 5 of the Act was filed for the eviction of the petitioners on the ground of ownership of the disputed land vests in Government as per *jamabandi* for the year 2013-14. The petitioners filed Civil Suit regarding the possession and ownership of disputed land in the Court of Civil Judge, Junior Division, Fatehgarh Sahib, which was dismissed vide order dated 31.08.2015. The appeal filed against the same was allowed by the Additional District Judge, Fatehgarh Sahib vide order dated 15.05.2019 to the extent that the petitioners would be evicted in accordance with law. It is apparent from the record that against the order dated 15.05.2019 passed by Additional District Judge, RSA No.5279 of 2019 has been filed in this Court, which is pending adjudication. Respondent No.1 through Tehsildar, Bassi Pathana filed petition under Sections 4 and 5 of the Act. As the issue already decided by the Civil Court, the Collector allowed the petition filed by respondent-State finding the petitioners in unauthorized possession over the disputed land. An appeal was filed by the petitioners before the Deputy Commissioner, Fatehgarh Sahib. From the revenue record produced i.e. *jamabandi* for the year 2013-14, the disputed land is depicted as “*Sarkaar Daulat Mddar*” in cloumn No.3 and the petitioners were shown as *Gair Marusi* in column No.4 of the *jamabandi*. Thus, the eviction order passed by the SDM has been upheld by the Appellate Court. The submissions made by counsel for

the petitioners claiming the petitioners to be mortgagee over the suit land is without any sanctity as the same is without any evidence on record. Even otherwise, the petitioners are evidently in unauthorized possession of the disputed land and hence, the same would not provide any right to the petitioners to remain in possession of the disputed land, the ownership of which is with the Government. The learned Additional District Judge while allowing the appeal partly had directed not to dispossess the petitioner except in due course of law and the same has been complied with by the respondent-State by invoking the appropriate remedy for eviction of the petitioners. Thus, this Court does not find any infirmity in the impugned orders passed and hence, the present petition being devoid of any merit, is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

13.09.2023
sharmila

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