

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(I)	CWP-24068-2015 Reserved on: 22.02.2023 Date of decision: 3.03.2023	
PURAN CHAND & ORS.		...Petitioners
	Versus	
STATE OF PUNJAB & ORS.		...Respondents
(II)	CWP-13676-2016 (O&M)	
MAKHAN SINGH		...Petitioner
	Versus	
STATE OF PUNJAB & ORS		...Respondents
(III)	CWP-4154-2016 (O&M)	
LACHMAN DASS		...Petitioner
	Versus	
STATE OF PUNJAB & ORS		...Respondents
(IV)	CWP-4156-2016	
RAM CHAND & ORS		...Petitioners
	Versus	
STATE OF PUNJAB & ORS		...Respondents
(V)	CWP-4158-2016 (O&M)	
SHIV DAYAL		...Petitioner
	Versus	
STATE OF PUNJAB & ORS		...Respondents

(VI)	CWP-8739-2016 (O&M)
MILKH RAJ (DECEASED) THROUGH LRs & ANOTHER	...Petitioners
Versus	
STATE OF PUNJAB & ORS	...Respondents
(VII)	CWP-8773-2016 (O&M)
PURAN CHAND	...Petitioner
Versus	
STATE OF PUNJAB & ORS	...Respondents
(VIII)	CWP-8793-2016 (O&M)
PAPPI	...Petitioner
Versus	
STATE OF PUNJAB & ORS	...Respondents
(IX)	CWP-8819-2016 (O&M)
JAGDISH CHAND & ANOTHER	...Petitioners
Versus	
STATE OF PUNJAB & ORS	...Respondents
(X)	CWP-8982-2016 (O&M)
SURJA RAM & ANOTHER	...Petitioners
Versus	
STATE OF PUNJAB & ORS	...Respondents

(XI)

CWP-8991-2016

PURAN CHAND

...Petitioner

Versus

STATE OF PUNJAB & ORS

...Respondents

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

Present: Mr. M.K. Sajjan, Advocate
for the petitioners.

Ms. Monika Jalota, Sr. DAG, Punjab

Mr. Ashok Kumar Sama, Advocate
for respondent No.4-Gram Panchayat.

Mr. Rahul Arora, Advocate for respondent No.5
(in CWP Nos.8739, 8793, 8991 and 8819 of 2016).

SURESHWAR THAKUR, J.

1. Since all the writ petitions contain a common question of law, and, also when each of the writ petition carry almost similar facts, thus all the writ petitions are amenable for being decided through a common verdict.

CWP-24068-2015

2. The Gram Panchayat, Salemsah, Tehsil and District Fazilka, had filed a petition under Section 7 of The Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as “the Act”) against Puran Chand, Rano Bai, Santosh Rani and Meera Rani, for their eviction from land measuring 87 Kanals 10 Marlas situated in village Salemsah, and, also for recovery of compensation from them, for their illegal occupation of land. The said petition was allowed vide order of 13.12.2013 (Annexure P-7). The appeal filed thereagainst was dismissed by the learned Appellate Authority vide order of 25.08.2015 (Annexure P-9).

CWP-4154-2016

3. Gram Panchayat filed petition under Section 7 of the Act, for the ejectment of the respondents therein from the land measuring 51 Kanals and 15 Marlas, and, also for recovery of compensation from them, for their illegal occupation of the lands. The said petition was allowed vide order of 13.12.2013 (Annexure P-3). The appeal filed thereagainst was dismissed by the learned Appellate Authority vide order of 25.08.2015 (Annexure P-5).

CWP-13676-2016

4. Gram Panchayat filed petition under Section 7 of the Act, for the ejectment of the respondents therein from the land measuring 32 Kanals and 0 Marlas, and, also for recovery of compensation from them, for their illegal occupation of the lands. The said petition was allowed vide order of 13.12.2013 (Annexure P-3). The appeal filed thereagainst was dismissed by the learned Appellate Authority vide order of 25.08.2015 (Annexure P-5).

CWP-4156-2016

5. Gram Panchayat filed petition under Section 7 of the Act, for the ejectment of the respondents therein from the land measuring 16 Kanals and 0 Marlas, and, also for recovery of compensation from them, for their illegal occupation of the lands. The said petition was allowed vide order of 13.12.2013 (Annexure P-3). The appeal filed thereagainst was dismissed by the learned Appellate Authority vide order of 25.08.2015 (Annexure P-5).

CWP-4158-2016

6. Gram Panchayat filed petition under Section 7 of the Act, for the ejectment of the respondents therein from the land measuring 61 Kanals and 8 Marlas, and, also for recovery of compensation from them, for their illegal occupation of the lands. The said petition was allowed vide order of 13.12.2013

(Annexure P-3). The appeal filed thereagainst was dismissed by the learned Appellate Authority vide order of 25.08.2015 (Annexure P-5).

CWP-8773-2016

7. Gram Panchayat filed petition under Section 7 of the Act, for the ejectment of the respondents therein from the land measuring 21 Kanals and 6 Marlas, and, also for recovery of compensation from them for their illegal occupation of the lands. The said petition was allowed vide order of 13.12.2013 (Annexure P-3). The appeal filed thereagainst was dismissed by the learned Appellate Authority vide order of 25.08.2015 (Annexure P-5).

8. For the reasons to be assigned hereinafter the writ petitions (supra) are dismissed. The primary reason for doing so, is planked, upon a perusal of the reply on affidavit furnished to the writ petition(s) by Deputy Director & Panchayat Officer, Fazilka, wherein occur echoings, that the petitioners had suffered concurrent orders of dismissal on a petition cast under Section 11 of the Act. The said orders acquire(s) conclusivity, as they remain un-annulled through an order made by the jurisdictionally Competent Court of law. Moreover, a reading of the order reveals *qua* a compensation amount carried in a sum of Rs.20,000/- per acre per annum become assessed *qua* the Gram Panchayat from the year 2007-08 in CWP-24068-2015; Rs.20,000/- per acre per annum become assessed *qua* the Gram Panchayat from the year 2007-08 in CWP-13676-2016; Rs.20,000/- per acre per annum become assessed *qua* the Gram Panchayat from the year 2007-08 in CWP-4154-2016; Rs.20,000/- per acre per annum become assessed *qua* the Gram Panchayat from the year 2007-08 in CWP-4156-2016; Rs.20,000/- per acre per annum become assessed *qua* the Gram Panchayat from the year 2007-08 in CWP-4158-2016; Rs.20,000/- per acre per annum become assessed *qua* the Gram Panchayat from the year 2007-08 in CWP-8773-2016.

9. Secondly, for the reason that the petitioners, had filed a civil suit which culminated in a RSA being instituted thereagainst before this Court, and, whereons a verdict of dismissal was made on 13.05.1987. Through, the verdict of dismissal as made upon apposite RSA, the petitioners were declared to be the mere lessees, upon the suit land, whereas, the ownership of the suit land was declared to vest in the Gram Panchayat concerned. The judgment in the apposite RSA is appended as Annexure R-2. Subsequently the name of the Panchayat became entered, in the column of ownership. The entry (supra) was made in pursuance to an order of mutation which is carried in Annexure R-8. The said order of mutation is a validly made order, as, in a judgment of the Hon'ble Apex Court pronounced in **Gram Panchayat Jamalpur Vs Malwinder Singh 1985 PLJ 463 SC**, a trite expostulation of law is carried, *qua* after coming into force of the Punjab Village Common Lands (Regulation) Act of 1953 (hereinafter referred to as "the Act of 1953), the Custodian concerned, having no lawful authority to make an allotment of lands to the migrants from Pakistan to India. Moreover, it has also been declared therein, that after coming into force of the Act of 1953, the lands of those Muslims who departed from India to Pakistan, on the occurrence of partition of India, rather would become completely vested in the Gram Panchayat concerned.

10. The eviction petition cast, under Section 7 of the Act, was but filed subsequent to all the above orders being made. On the apposite petitions, the impugned orders of evictions were respectively, made initially by the learned Collector concerned, and, latter by the learned Appellate Authority concerned. The effect of assigning conclusivity, and, binding effect to the preceding thereto conclusive orders, as, made respectively by the statutory forums as well as by the Courts of law, is that, the declaration pronounced therein that the Gram Panchayat concerned, is the owner of the suit land, but has a further

consequential effect, that the Gram Panchayat concerned, was entitled to seek the eviction of the petitioners from the suit property. Therefore, all the afore writ petitions are dismissed, and, the impugned orders passed by the Authorities below are affirmed, and, maintained.

CWP-8819-2016

11. The applicant(s) filed petition under Section 11 of the Act for a declaration that the petitioners, are, tenants over 64 Kanal 3 Marlas on land, which is recorded in the ownership of Custodian department, and, that the Gram Panchayat is not the owner. The petition (supra) was dismissed by Collector cum DDPO, Ferozepur vide order of 21.11.2002 (Annexure P-5). The appeal thereagainst was also dismissed by the learned Appellate Authority on 25.08.2015 vide Annexure P-6.

CWP-8982-2016

12. The applicant(s) filed petition under Section 11 of the Act for a declaration that the petitioners, are, tenants over 78 Kanal 4 Marlas on land, which is recorded in the ownership of Custodian department, and, that the Gram Panchayat is not the owner. The petition (supra) was dismissed by Collector cum DDPO, Ferozepur vide order of 21.11.2002 (Annexure P-5). The appeal thereagainst was also dismissed by the learned Appellate Authority on 25.08.2015 vide Annexure P-6.

CWP-8991-2016

13. The applicant(s) filed petition under Section 11 of the Act for a declaration that the petitioner, is, a tenant over 87 Kanal 10 Marlas on land, which is recorded in the ownership of Custodian department, and, that the Gram Panchayat is not the owner. The petition (supra) was dismissed by Collector cum DDPO, Ferozepur vide order of 21.11.2002 (Annexure P-5). The appeal

thereagainst was also dismissed by the learned Appellate Authority on 25.08.2015 vide Annexure P-6.

CWP-8793-2016

14. The applicant(s) filed petition under Section 11 of the Act for a declaration that the petitioner, is, a tenant over 77 Kanal 18 Marlas on land, which is recorded in the ownership of Custodian department, and, that the Gram Panchayat is not the owner. The petition (supra) was dismissed by Collector cum DDPO, Ferozepur vide order of 21.11.2002 (Annexure P-5). The appeal thereagainst was also dismissed by the learned Appellate Authority on 25.08.2015 vide Annexure P-6.

CWP-8739-2016

15. The applicant(s) filed petition under Section 11 of the Act for a declaration that the petitioners, are, tenants over 62 Kanal 14 Marlas on land, which is recorded in the ownership of Custodian department, and, that the Gram Panchayat is not the owner. The petition (supra) was dismissed by Collector cum DDPO, Ferozepur vide order of 21.11.2002 (Annexure P-5). The appeal thereagainst was also dismissed by the learned Appellate Authority on 25.08.2015 vide Annexure P-6.

16. For the reasons to be assigned hereinafter all the writ petitions from para Nos.11 to 15 are dismissed, and, the impugned order as respectively made thereon respectively by the learned Collector concerned, and, by the learned Appellate Authority concerned, are maintained, and, affirmed.

17. The reason for making the above conclusion, becomes anvilled, upon the factum, that since the Hon'ble Apex Court in a judgment rendered in case **Gram Panchayat Jamalpur Vs Malwinder Singh 1985 PLJ 463 SC**, has propounded therein, that after coming into force of the Act of 1953, the Custodian concerned, having no vestige of any right, title or interest, to make

allotments of the lands concerned, to the migrants from Pakistan to India. Therefore, and with a further declaration being made therein, that after coming into force of the Act of 1953, the lands of the Muslim migrants from India, to Pakistan rather becoming completely vested in the *Panchayat Deh*. Thus obviously post 1953, in respect of the lands of the Muslim migrants from India to Pakistan, the Panchayat was the able owner of such lands, and, resultantly the mutation of ownership was required to be attested but obviously in favour of the Panchayat concerned. Since the Panchayat is the lawful owner of the petition lands, and, the petitioners are merely lessees, therefore they were amenable to be evicted from the petition lands. Moreover, subsequent thereto a corresponding entry was required to be made in the relevant column of the revenue records. The amount(s) of compensations as levied in above manner are also ordered to be lawfully recovered from the Panchayat concerned.

18. Accordingly, all the writ petitions are dismissed, and, the impugned orders are maintained and affirmed.

19. Pending miscellaneous application(s), if any, stand(s), disposed of.

(SURESHWAR THAKUR)
JUDGE

3.03.2023

Ithlesh

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

(KULDEEP TIWARI)
JUDGE