IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

CWP-5184-2016
Reserved on: 12.04.2023
Pronounced on: 20.04.2023

Gram Panchayat, Village Fatehgarh Neuan through its Sarpanch
.....Petitioner

Versus

Joint Development Commissioner, (IRD), S.A.S. Nagar and others
.....Respondents

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

Argued by: Mr. Kashmir Singh, Advocate
for the petitioner.

Mr. Maninder Singh, DAG, Punjab.

Mr. G.S.Nagra, Advocate and
Mr. R.S.Rawat, Advocate
for respondent No. 3.

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<u>SURESHWAR THAKUR, J.</u>

Factual Background.

1. One Ranjit Singh, respondent No. 3, in the instant petition, instituted a title suit under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961, hereinafter for short called as 'the PVCL Act'. The said suit was assigned file No. 392/ADC (D)/Collector. In the suit (supra), the said Ranjit Singh claimed, making of a declaratory decree, hence declaring him to be the owner in possession of agricultural land, comprised in Khewat No. 411/388, Khatoni No. 496 to 500, Khasra No. 74 (1-7), 75 (0-7-10), 86 (1-3-19), 87 (0-16-16), 88 (0-14-4), 97 (0-8), 98 (0-8), 51 (0-7-12), situated at Village Fatehgarh

Neuan.

2. Through a decision made on 12.01.2015, upon the suit (supra), the learned Collector concerned, after appreciation of the documentary evidence, as became adduced before him, and with its revealing, that the predecessors in interest of Ranjit Singh, were independently making cultivation possession of the disputed lands, before 26.01.1950, thus, decreed the suit. In other words, the Collector concerned, on the basis of the said unrebutted documentary evidence erected thereons, an inference that thereons, the application of the exclusionary clause to the definition of *shamlat deh,* rather becoming necessitated. The apposite exclusionary clause, clause whereof, is carried in Section 2(g)(viii) of 'the PVCL Act' becomes extracted hereinafter.

> *"2(g) 'shamilat deh' includes-*
> *(1) xxxxxxx;*
> *(2) xxxxxxx;*
> *(3) xxxxxxx;*
> *(4) xxxxxxx;*
> *(5) xxxxxxx;*
> *"but does not include land which:-*
>
> *(i) xxxxxxxx*
> *(ii) xxxxxxxxxx;*
> *(iii) xxxxxxxx*
> *(iv) xxxxxxxxxxxx;*
> *(v) xxxxxxxxxxx*
> *(vi) xxxxxxxxxx*
> *(vii) xxxxxxxx*
> ***(viii) was shamlat deh, was assessed to land revenue and has been in the individual cultivating possession of co-sharers not being in excess of their respective shares in such shamlat deh on or before the 26th January, 1950; or***

(ix) xxxxxxxxxxxxx;"

3. Resultantly the learned Collector concerned, proceeded to grant the espoused declaratory relief to the said Ranjit Singh.

Proceedings before the competent Appellate Authority.

4. The aggrieved Gram Panchayat concerned, instituted thereagainst appeal No. 26/15 before the competent Appellate Authority concerned. The said appeal was decided on 24.09.2015.

5. A reading of the decision (supra), as made on the appeal (supra), and, as becomes carried in Annexure P-4/T, unfolds, that the learned Appellate Authority concerned, after concurring with the inference(s) and conclusion(s), as became drawn by the learned Collector concerned, but on the basis of the unrebutted documentary evidence (supra), besides on apt application thereons of the above apposite exclusionary clause, thus, obviously proceeded to decline relief, to the aggrieved appellant.

6. Therefore, the aggrieved Gram Panchayat concerned, is led to constitute thereagainst the instant petition.

Conclusions/Reasons for dismissing the instant petition.

7. The primary reason for this Court becoming constrained to reject the instant petition, is embedded in the factum, that undisputedly, there is unrebutted and clinching documentary evidence existing on record, but displaying that the predecessor(s) in interest of one Ranjit Singh, were holding independent cultivating possession, of the disputed lands, besides, when such independent cultivating possession, is, without any encumbrance of theirs' paying rent to the land owners concerned. Resultantly, conclusivity is to be assigned to the said documentary evidence.

8. Therefore, the effect of assigning of conclusivity to the revenue entries, as existing in the revenue records, and theirs' making suggestions, that the predecessors in interest of Ranjit Singh, were holding independent cultivating possession of the disputed lands prior to 1950, is that, the application to the said revenue entries, of the apposite exclusionary clause (supra), as done by both the statutory authorities below, thus, cannot be faulted on any valid legal score.

9. In sequel, when the exclusionary clause (supra), to the definition of *shamlat deh* land, does save the disputed lands from theirs' becoming vested in the *panchayat deh* concerned. Resultantly, the declaratory relief of ownership, as became conferred, upon Ranjit Singh, on his suit, through the concurrently made affirmative verdicts, does but not require any interference being made.

Final Order

10. In aftermath, this Court does not find any merit in the writ petition, and, with the above observations, the same is dismissed. The impugned orders are affirmed and maintained.

11. No order as to costs.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
20.04.2023 **JUDGE**
kavneet singh

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