

Sr.No.110

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

**LPA No.763 of 2022(O&M)
Date of Decision: 19.01.2023**

Billu Singh

.....Appellant

versus

State of Punjab and others

.....Respondents

**CORAM: Hon'ble Mr. Justice G.S Sandhawalia
Hon'ble Ms. Justice Harpreet Kaur Jeewan**

Present: Mr. Jagraj Singh Khiva, Advocate
for the appellant.

Mr. Abhay Pal Singh Gill, DAG, Punjab.

G.S.Sandhawalia, J(Oral).

Present appeal is directed against the order of the learned Single Judge passed in CWP No.18885 of 2022 decided on 26.08.2022 whereby ejectment orders passed regarding 41 kanals 6 marlas had been upheld.

The argument that notice should have been issued to him before filing of the eviction petition was repelled on account of fact Section 4 of the Punjab Public Premises and Land (Eviction & Rent Recovery) Act, 1973 (hereinafter referred to as 'Act') did not prescribe notice prior to the filing of the eviction petition. Similarly, it was noticed that the appellant has been recorded as 'gair marusi' as per entry in the revenue record and therefore, it did not give the right

to as such to the writ petitioner of lawful possession. Perusal of the paper book would show that initially the appellant had himself filed civil suit for permanent injunction to the effect that he was owner in possession since long time on the land in dispute as given in the head note of the suit. Injunction was granted to him on 27.01.2014(Annexure P-4) by the Civil Court holding out that since his possession was there, therefore, the defendants should be restrained from dispossessing the plaintiff from the suit property illegally and forcibly, except in due course of law.

Nagar Council Bareta had claimed that they managing the suit property for the welfare of people and possession has been taken illegally by the plaintiff and they were recovering possession as per law under the Act. Thus the appellant had never filed any suit for declaration stating that he had ownership of the property and only on account of the possession he had sought an injunction. He did not claim possession on the basis of any title as such and neither he claimed benefit of adverse possession. Initially the eviction petition had been dismissed on 21.02.2018(Annexure P-5) on the premise that there were restraint orders by the civil court. The said order was set aside and matter was remanded to the Collector on 31.05.2018 (Annexure P-6) eventually leading to the eviction order being passed on 26.07.2019 (Annexure P-7). The appeal was thereafter, dismissed by the Collector on 18.05.2022 (Annexure P-8) while noting that revenue record shows the entry mentioned Jumla Mustarka Rasad

Raqba. Reliance was placed on the decision of the Apex Court rendered in *State of Haryana through Secretary to Government of Haryana vs. Jai Singh and others; 2022(2) RCR (Civil) 803* to the extent that management and control of such land vest with the Panchayat and it does not revert back to the proprietors.

In such circumstances, we are of the considered opinion that the learned Single Judge has not erred in any manner while upholding the orders of the eviction. The title issue was never raised before any of the authorities and a simple suit for injunction had been filed which goes on to show that the appellant was well aware that he was not owner of the land. Therefore, Nagar Council Bareta being custodian of land had *locus standi* as such to seek the eviction which has been granted and in accordance with law. Thus, there is no merit in the present appeal and the same is hereby dismissed.

(G.S Sandhawalia)
Judge

(Harpreet Kaur Jeewan)
Judge

19th January, 2023

ShivaniKaushik

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No