

CWP-29448-2018

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2023:PHHC:107791-DB

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

CWP-29448-2018
Date of Decision: 11.08.2023

OM PARKASH

...Petitioner

VERSUS

DIVISIONAL COMMISSIONER, ROHTAK DIVISION, ROHTAK
AND OTHERS

...Respondents

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

Present: Mr. Piyush Aggarwal, Advocate
for the petitioner.

Mr. Saurabh Mago, DAG, Haryana.

Mr. S.S.Siao, Advocate
for respondent No.4.

KULDEEP TIWARI. J.

1. The petitioner through the instant petition seeks quashing of the order dated 20.8.2018 (Annexure P-10) passed by the learned Commissioner, Rohtak Division, Rohtak and order dated 27.5.2014 (Annexure P-9) passed by the learned Collector-cum-Deputy Commissioner, Jhajjar, and, order dated 8.10.2013 (Annexure P-7) passed by the learned Asst. Collector 1" Grade, Jhajjar, vide which the application filed by the Gram Panchayat, Chhabili through its Sarpanch, under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as 'the Act of 1961) was allowed and the appeal as well as the revision petition preferred by the petitioner were

dismissed.

2. Learned counsel for the petitioner argued that the petitioner has challenged the impugned order dated 8.10.2013 which is premised on the ground, that on 10.11.1994, a resolution was passed in the presence of Sarpanch of the Gram Panchayat, namely, Harphool Singh, and, in pursuance thereto, some part of the land owned and possessed by the petitioner, was exchanged with the land of the Gram Panchayat, which initially was to be used for easy access to Panghat and Johad. He further submitted that the land which was equivalent to the land of the petitioner was given in exchange to the Gram Panchayat vide exchange deed dated 10.11.1994 (Annexure P-4). Therefore, the Gram Panchayat, who infact utilized the land which they got in exchange from the petitioner, whereas now cannot turn around back and seek eviction of the present petitioner on the ground that such exchange deed was never approved by the competent authority concerned. In support of his arguments, he has placed reliance upon the judgments passed by this Court in **Mishra Singh and another Vs. State of Punjab, CWP-7355-2007, decided on 29.8.2016** and **Maghar Singh Vs. The Joint Development Commissioner, Punjab, 2004(1) RCR (Civil)127**. It was further submitted that the Sarpanch of the Gram Panchayat concerned, has also admitted the exchange deed dated 10.11.1994.

3. The respondent No.4 (Gram Panchayat) filed an application under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961(hereinafter referred to as '**the Act of 1961**') for the eviction of four

persons including the present petitioner. The petition was filed after *khasra no.21/12* was demarcated by the Halqa Kanungo Sh. Om Parkash. The demarcation was conducted after earmarking the pucca points and as per the demarcation report, the Gram Panchayat concerned, was found to be in illegal possession on *khasra No.21/12*, whereas the land on the said *khasra number* belongs to the petitioner and other respondents therein. The relevant extract reads as under:-

“That over Khasra No.21/12, Bhim-respondent No.2 therein is in unauthorised possession by installing Khors and Khunte, which is shown as Mark EFGH.

That on Khasra No.21/12, Chatru-respondent No.3 therein is in unauthorised possession by constructing Chabutra, which is shown in the site plan as mark CDKL.

That on Khasra No. 21/12, respondent No. 4-Gram Panchayat is in unauthorised possession by constructing his house, which is shown as mark ABEF.

That the respondent No.4-Gram Panchayat has asked the respondents therein several times to remove their unauthorised possession and not to raise construction. The respondents No. 1, 2, 3 and 4 have been impleaded as party since they had connived with each other."

4. Learned counsel for the petitioner while relying on the panchayat proceedings book dated 10.11.1994 contended that the panchayat land which falls in *khasra No.21/12* was infact exchanged by the then Sarpanch Harphool Singh, and, the petitioner is now in possession of the said panchayat land. However, the learned Asstt. Collector 1st Grade, Jhajjar, vide order dated 8.10.2023 allowed the

eviction application on the ground that the exchange was not approved by the competent authority i.e. Director, Panchayat and as per the demarcation report Ex.A-5, the petitioner and other respondents therein are in illegal possession of the panchayat land.

5. Having aggrieved with the eviction order (Supra), the petitioner made an unsuccessful challenge by filing a statutory appeal which was dismissed, vide order dated 27.5.2014. The petitioner again preferred a revision petition against order (Supra) which was also dismissed, vide order dated 20.8.2018.

6. We have considered the submissions made by the learned counsel for the petitioner and find no merit in the present petition.

7. It is undisputed that the petitioner has not encroached upon the land falling in *khasra No.21/12* and the same belongs to the Gram Panchayat concerned. The demarcation report which was exhibited as Ex. A5 was not challenged by the petitioner in appropriate time. Further, there is no document on record, which can prove that there was a valid exchange of land between the Gram Panchayat concerned, and the present petitioner. Rather the reply filed by the Gram Panchayat concerned, reveals that the land which was given in exchange to the petitioner, for the benefit of inhabitants of the village has already been sold by him to one Suraj Mal son of Ramu. Therefore, there is no question of exchange of land. This factual aspect has been disputed by the respondent-Gram Panchayat and the petitioner has not proved this aspect before the authorities below by leading any cogent evidence.

Rather, the learned counsel for the petitioner keeps on relying upon Annexure P-4 which is nothing but a resolution of the Gram Panchayat which has not been approved by the competent authority i.e. Director Panchayat. Therefore, in the absence of any approval from the competent authority, any exchange of the panchayat land is void ab-initio.

8. In view of the above discussion, we find no merit in the present petition and the same is, hereby, dismissed.

9. However, in case the petitioner still has grievance that the land belonged to him and is still under the possession of the Gram Panchayat, he may make appropriate motion before the appropriate Court for the redressal of his grievance.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

11.08.2023

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Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No