

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-1764-2023 (O&M)

Date of decision: 17.11.2023.

Man Phool and another

....Appellants.

Versus

State of Haryana and others

...Respondents.

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

.....

Present: Mr. N.C. Manchanda, Advocate for the appellants.

SUKHVINDER KAUR, J.

This Intra Court Appeal has been preferred against the judgment dated 18.08.2023 passed by a learned Single Judge of this Court, whereby CWP-16243-2023 filed by the appellants has been dismissed.

2. The brief facts of the case are that the mother of appellants filed an application for correction of Khasra Girdawari regarding the land in dispute before the Assistant Collector-II Grade, Chhachrauli, which was dismissed on 05.08.2010. After her death during the pendency of the said application for correction of Khasra Girdawari, the appeal was preferred by the appellants before the Collector-cum-SDO (Civil), Bilaspur, District Yamuna Nagar against the order dated 05.08.10, which was dismissed vide order dated 31.01.2012. Aggrieved by the said order the appellants filed revision petition before Commissioner, Ambala Division, Ambala which

was also dismissed on 07.02.2014. The revision petition filed before the Financial Commissioner against the said order was also dismissed on 25.02.2021.

3. The applicants then knocked the doors of this Court by way of filing of CWP-16243-2023 which has been dismissed by a learned Single Judge of this Court vide order dated 18.08.2023. Hence, the present Intra Court Appeal.

4. It has been submitted by learned counsel for the appellants that initially father of the appellants, namely, Ram Kishan was tenant over the land in dispute for the last 40 years which was under the ownership of the Central Government. Thereafter mother of the appellants became tenant under the Central Government and had been paying rent to the Central Government upto the year 1991. Mother of the appellants had filed an application for correction of Khasra Girdawari regarding land measuring 26 Kanals 11 Marlas in Khewat No.218 min, Khatuni No.263, Khasra No.82//32 situated at village Chhachhrauli, District Yamuna Nagar. The said application was dismissed by Assistant Collector-II Grade, Chhachhrauli on 05.08.2010. The appellants filed the appeal before Collector-cum-SDO (Civil) Bilaspur, District Yamuna Nagar, which was dismissed on 31.01.2012. The revision petition preferred before the Commissioner, Ambala Division, Ambala was also dismissed on 07.02.2014. Thereafter appellants filed revision petition before the Financial Commissioner, Haryana which was also dismissed vide order dated 25.02.2021. Learned counsel for the appellants has further contended that all these above quoted impugned orders suffer from patent illegality as the evidence on record has not been properly appreciated. The issue involved in the writ petitions

CWP-576-1967 and CWP-1167-1967 filed before the Hon'ble High Court which were decided on 08.03.1970 were regarding the ownership of the land, where the predecessor in interest of the appellants remained as tenants and thus appellants are in possession over the land in dispute for the last 60 years. But the respondent authorities as well as learned Single Judge has failed to appreciate the same and has drawn a wrong conclusion while declining the prayer of the appellants. He has also contended that the Khasra Girdawari is to be corrected on the basis of possession of land otherwise land may be owned by number of co-sharers. But this aspect has also been ignored while passing the impugned orders by the revenue authorities as well as by the learned Single Judge. The private respondents have not produced any documentary evidence to show possession over the land in question which shows that possession has remained with the appellants till today and it has not been disturbed. He has argued that the authorities without taking into consideration the facts of the case, pleadings of the parties and evidence on record, recorded a finding which is based on conjectures and surmises and has prayed that the present appeal may be accepted and the impugned orders passed by the revenue authorities and the order passed by the learned Single Judge may be set aside.

5. Perusal of record reveals that on 06.08.2002, an application was filed by mother of the appellants before Naib Tehsildar (sales), Yamuna Nagar seeking allotment of the land in dispute, which was rejected. Aggrieved against the said order mother of the appellants filed CWP-7301-2004 for considering her claim regarding allotment of land claiming herself to be in cultivating possession of the said land for the last 40 years as *gair marusi* tenant, which was also dismissed on 17.09.2012 by holding them as

trespassers. LPA-1800-2012 filed against the said order was also dismissed on 16.11.2012. Thereafter, the SLP filed before the Hon'ble Supreme Court was also dismissed on 18.09.2017.

6. Thus, up to the Supreme Court there are concurrent findings by all the authorities that the appellants were not having any tenancy rights and were trespassers.

7. The learned Single Judge has thus rightly held that in the facts and circumstances of this case no perversity has been found in the decision arrived at by the Collector, Appellate and the Revisional Authority and when the appellants have been found to be trespassers then there was no point to make any correction in the Khasra Girdawari.

8. In the light of the above, the learned Single Judge is found to have considered the matter in the right perspective. There is no illegality or perversity in the impugned judgment warranting any interference.

9. Dismissed.

10. All pending applications, if any, also stand disposed of accordingly.

(DEEPAK SIBAL)
JUDGE

(SUKHVINDER KAUR)
JUDGE

17.11.2023

Komal

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