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

CWP-22478-2023

Date of decision : 06.10.2023

Balbir Kaur**.....Petitioner**

versus

State of Punjab and others**..... Respondents****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ*********

Present :- Mr. Sandeep Arora, Advocate
for the petitioner.

*********RAJESH BHARDWAJ, J.**

Prayer in the present petition is for quashing the order dated 16.05.2023 (Annexure P-5) passed by respondent No.2 i.e. Joint Development Commissioner, Punjab under Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 vide which the appeal filed by the petitioner against the order dated 23.11.2021 passed by District Development & Panchayat Officer, Jalandhar-cum-Collector, Jalandhar ordering the eviction of the petitioner from the property measuring 10 marlas situated in Village Nijjran, Tehsil and District Jalandhar was dismissed, the said order being illegal, void and without jurisdiction is therefore, liable to be set aside in the present writ petition.

Learned counsel for the petitioner has submitted that respondent No.3-Gram Panchayat, Village Nijjran, Tehsil and District Jalandhar filed the petition under Sections 4 and 5 of Punjab Public Premises & Land (Eviction & Rent Recovery) Act for ejectment of the petitioner from the property measuring 10 marlas on the ground that the

disputed property falls in Khasra No.136, 139 is a common land of the

Village which is under the control of Panchayat and that the petitioner wanted to encroach upon the Panchayati property. He has submitted that on 29.01.2021 notice was issued to the petitioner for eviction from the land in question on the ground that a solid waste management plant was to be constructed on the aforesaid site. Thereafter on 26.05.2021 and 18.06.2021, notice was issued by the BDPO, Jalandhar West for eviction of petitioner. He submits that on 23.11.2021, DDPO, Jalandhar ordered the ejectment of the petitioner from the property in violation of the settled principles of law. Petitioner assailed the same by way of filing the appeal before respondent No.2 but respondent No.2 failed to appreciate the facts and circumstances, evidence on record and the law settled and thus, illegally dismissed the same vide impugned order dated 16.05.2023. He has submitted that both the Courts below have passed the impugned orders which are totally based on conjectures and surmises. He submits that the petitioner had an uninterrupted possession over the disputed property and the same has been established. He has further submitted that the disputed property is not even an evacuee property and thus, there was no evidence that the same is used for the common purpose of the villagers. He has submitted that the respondent-Gram Panchayat failed to produce any evidence regarding its ownership and thus, the impugned eviction order passed by the DDPO is unsustainable in the eyes of law and deserves to be set aside.

Heard. After hearing counsel for the petitioner and perusing the record, it is apparent that the petition under Sections 4 and 5 of the Punjab Public Premises Act was filed for ejectment of the petitioner by the Gram Panchayat as the petitioner had illegally encroached upon the

property measuring 10 marlas which was part of Khasra No.136(2-1), 139 (17-5) situated in Village Nijjran. The Gram Panchayat convened a meeting on 10.07.2021 and unanimously resolved for filing the petition against the petitioner for his ejectment. On 29.01.2021, notice was issued to the petitioner with the request that the solid waste management plant was to be constructed and hence the illegal encroachment be removed. On the petition filed, learned DDPO issued notice to the petitioner and granted various opportunities for filing his/her response to the petition but she did not file any response. Resultantly, their defence was struck off and both the sides were heard. As per record, the management and control of the property in dispute was with the Panchayat thus, finding the petitioner in an illegal possession, petition filed by the respondent-Gram Panchayat was accepted and the petitioner was evicted with a specific direction to hand over the possession of land within a period of 30 days to the Panchayat vide order dated 23.11.2021 passed by DDPO, Jalandhar. Thereafter, the appeal was filed by the petitioner-appellant under Section 9 of the Punjab Public Premises and Eviction Act before the Joint Development Commissioner, Punjab (Exercising the powers of Commissioner, under PP Act). Learned Commissioner heard both the sides again and re-appreciated the evidence on record. As per the revenue record, name of the Gram Panchayat was found to be reflected in the ownership column and the land was to be utilized for the common purposes of the village. On the other hand, the petitioner failed to produce any document regarding her continuation in possession prior to 26.01.1950. Thus, finding no merit, the appeal was dismissed. Thus, it is evident that the respondent-Gram Panchayat is the owner of the property

in dispute which was being used for the common purposes of the village. The petitioner has failed to produce any evidence regarding her ownership or the legal possession. Thus, in the considered opinion of this Court, there is no infirmity whatsoever in the impugned order passed, hence, the petition being devoid of any merits is hereby dismissed.

06.10.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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