

232

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

CWP-34720-2019 (O&M)

Date of decision:29.03.2023

S P S RATHORE

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLR MR. JUSTICE VIKRAM AGGARWAL**

Present: Mr. Rahul Rathore, Advocate
for the petitioner.

Mr. Pradeep Parkash Chahar, DAG, Haryana

Mr. J.K. Chauhan, Advocate
for respondents No.5 to 9.

SURESHWAR THAKUR, J. (ORAL)

1. The present petitioner has suffered concurrently made orders of eviction from all the statutory authorities below. Moreover, the plea as became raised by him, and, as relates to its being a bona fide purchaser of the petition lands for value, and without notice, rather became rejected by the authorities below.

2. Be that as it may, in the concurrently made orders, the statutory authorities below imposed, upon the petitioner herein a penalty quantified, in a sum of Rs.10,000/- per acre, and, the said imposed penalty, upon, the petitioner hence was in respect of his making illegal occupation of the petition lands, as,

owned by the Gram Panchayat concerned. Moreover, the said imposed penalty, upon the petitioner was ordered to commence from the date of his making illegal occupation of the petition lands.

3. However, at this stage, the learned counsel appearing for the petitioner, does not contest, the validity of the concurrently made orders against him by the statutory authorities below, as relate to his being evicted from the petition lands. On the other hand, he chooses to argue against the validity of above quantification of penalty, as became imposed upon him, inasmuch as, he submits, that the said imposition of penalty, upon, the petitioner rather is outside the ambit of sub-Section 2 of Section 7 of The Punjab Village Common Lands (Regulation) Act, 1961 (applicable to Haryana) (hereinafter referred to as “the Act”), provisions whereof stands extracted hereinafter.

“7 (2). The Assistant Collector of the first grade shall by an order, in writing, require any person to pay a penalty, in respect of the land or other immovable property which was or has been in his wrongful or unauthorised possession, at a rate not less than five thousand rupees and not more than ten thousand rupees per hectare per annum, having regard to the benefit which could be derived from the land or other immovable property. If the penalty is not paid within the period of thirty days from the date of the order, the same shall be recoverable as arrears of land revenue.”

4. In making the above submission, he submits, that the above imposed penalty upon the petitioner, but was squarely within the domain of the said sub-Section 2 of Section 7 of the Act, yet if the quantum of penalty became comprised in a sum of Rs.10,000/- per annum, besides was made per hectare wise. Contrarily, he submits that in the order imposing penalty, the authorities below have contrarily imposed penalty in a sum of Rs.10,000/- rather per acre wise, dimensions whereof, are completely different from the tenable dimensions

of a hectare, dimension(s) whereof is the one, which is to be borne in mind by the authorities below, in making the relevant imposition(s), upon, the errant concerned.

5. The above argument is supported from a reading of the provisions (supra). In consequence, the argument made before this Court, by the learned counsel for the petitioner succeeds, and, the concurrently made orders by the authorities below, relating to the imposition of penalty, upon, the present petitioner, as, arising from is illegally occupying the petition lands, and, as become comprised in a sum of Rs.10,000/- per acre, is altered to, or modified to a sum of Rs.10,000/- per hectare.

6. Though, in the concurrently made impugned orders, there is a requirement of speakings being made therein, that the above modified penalty, being leviable per annum wise, but even if there is no reference in the apposite orders, that the above imposed penalty, upon the petitioner, is leviable per annum wise. However, even irrespective of the fact, that no challenge thereto has been made, at the instance of the Gram Panchayat concerned, this Court deems it fit and, appropriate to make compliance with the statutory mandate, as, carried in sub-Section 2 of Section 7 of the Act, and, thus is led to direct, that the modified penalty imposed a sum of Rs.10,000/- per hectare, shall be levied, upon the petitioner rather per annum wise.

7. The above amounts shall relate to the stage of entry being made upon petition lands by the petitioner, and, shall last upto the stage of possession of the petition lands being lawfully delivered, to the Gram Panchayat concerned. The above deposit be made within two months from today, and, if not made, then it is open to the Gram Panchayat concerned, to draw appropriate proceedings for ensurings the realization(s) thereof, from the present petitioner but in accordance with law.

8. Disposed of accordingly.
9. Pending miscellaneous application(s), if any, stand(s), disposed of.

(SURESHWAR THAKUR)
JUDGE

29.03.2023

(VIKRAM AGGARWAL)
JUDGE

Ithlesh

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