

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

106

CWP-26440-2023

Date of decision: 01.12.2023

MOHINDER SINGH

.....Petitioner

Versus

JOINT DEVELOPMENT COMMISSIONER (IRD), RURAL
DEVELOPMENT AND PANCHAYAT DEPARTMENT

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present : Mr. Puneet Kumar Bansal, Advocate
for the petitioner.

Mr. Maninder Singh, DAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

1. The present petitioner becomes aggrieved from the concurrently made decisions, respectively by the Collector concerned (Annexure P-5), and, by the Commissioner concerned (Annexure P-7), whereby a declining decision was made on the declaratory suit, filed by the present petitioner, thus under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter for short called as the 'Act of 1961').

2. The suit lands are entered in the revenue records to be owned and possessed by the Gram Panchayat concerned. However, the

present applicant claimed assertion of title to the suit lands, thus on the basis of adverse possession. The said asserted adverse possession vis-a-vis the suit lands by the present petitioner, was contended to last for thirty years. Since the said possession over the suit lands, but with an *animus possidendi*, also became averred to last upto the year 2015-16. Resultantly a declaratory relief was espoused in the petition (supra), for thereby making the present petitioner to be valid owner in possession of the suit lands.

3. The above raised plea by the petitioner in the suit, became resisted by the Gram Panchayat concerned, through its instituting a reply thereto. In the reply filed to the said pivotal averment, a denial was made. Contrarily, it was contended that the suit lands, became allotted in the finalized consolidation scheme, thus to the Gram Panchayat concerned, and thereafter the suit lands are under the management and control of the Gram Panchayat concerned. Therefore, it was contended that the revenue entries, as made in the relevant records, thereby declaring the Gram Panchayat concerned, to be the valid owner and possession of the suit lands, rather are in terms of the finalized scheme of consolidation.

4. A reading of the concurrently made dismissal orders, on the petitioner's suit reveals, that no trite evidence became adduced, by the present petitioner, thus to support the above raised plea. The said finding, is aptly recorded, as in fact it becomes concurrently discussed, in both the impugned verdicts, that the petitioner failed to, in his deposition reveal the trite factum, relating to his commencing

possession on a specific date and month of the year concerned, and that the said commencement of possession, thus with an *animus possidendi*, rather continuously lasting upto the institution of the suit (supra), before the learned Collector concerned. The failure of adduction of the above evidence, thus to the considered mind of this Court, did aptly result, in an inference becoming drawn by the authorities below, qua thereby the petitioner failing to cogently establish, the pleaded fact, that he had from a specific date and month, thus commenced adverse possession over the suit lands, and that such assumed possession on the suit lands, thus uninterruptedly lasted upto the date of institution of the suit (supra).

5. The consequence of failure of adduction of above cogent evidence, is naturally that, for the above want(s) of adduction of the requisite discharging evidence, but obviously was to lead to his becoming non suited, as, aptly done by the authority(ies) below.

6. At the fag end, the learned counsel for the petitioner, has referred to the deposition occurring in the cross-examination, of the Sarpanch of the Gram Panchayat concerned, wherein, he has stated that on the site concerned, the present petitioner holds possession. Therefore, he argues that the said echoing made by the Sarpanch of the Gram Panchayat concerned, is but suggestive that thereby, the petitioner had proved the pleaded factum of his holding possession with a hostile/*animus possidendi* vis-a-vis the suit lands.

7. However, the above made argument cannot be accepted, as the learned counsel for the petitioner, while referring to the said made

echoing in the deposition comprised in the cross examination, of the petitioner, has done so without his bearing in mind, that the Sarpanch of the Gram Panchayat concerned, thereafter in his cross examination, also stating that in the *khasra girdawari* , the panchayat becoming recorded to be holding possession of the suit lands.

8. Therefore, the possession, if any, over the suit lands by the present petitioner, cannot be said to be either valid possession and nor when for reasons (supra), his possession over the suit lands, becomes un-established, to rather with a proven hostile *animus possidendi* hence last, thus for the requisite length of time. Resultantly, when in the deposition(s) of any other witness, if any, rather no speakings occur thereins, vis-a-vis, the specific time, month and year of commencement of such adverse possession.

9. Therefore, for all the reasons (supra), since the petitioner has failed to establish the averment raised in the suit, that he had acquired a perfect title through adverse possession, over the suit lands, thereby constrains this Court to after accepting the concurrently made decisions against him by the authorities below, to thus dismiss the writ petition.

10. In consequence, this Court finds no merit in the writ petition and the same is accordingly dismissed. No order as to costs.

11. Since the main cases itself has been decided, thus, all the pending application(s), if any, also stand(s) disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

01.12.2023

kavneet singh

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