

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1)	CWP-374 of 2019 Reserved on:13.12.2023. Date of Decision:12.01.2024	
Dharampal and others	Versus	... Petitioners
Commissioner Karnal Division, Karnal and others		... Respondents
2)	CWP-1318 of 2019	
Lajjo	Versus	... Petitioner
Commissioner Karnal Division, Karnal and others		... Respondents
3)	CWP-2073 of 2019	
Maniya	Versus	... Petitioner
Commissioner Karnal Division, Karnal and others		... Respondents
4)	CWP-489 of 2019	
Abhey Ram	Versus	... Petitioner
Commissioner Karnal Division, Karnal and others		... Respondents
5)	CWP-568 of 2019	
Chander Pati	Versus	... Petitioner
Commissioner Karnal Division, Karnal and others		... Respondents

- 6)

CWP-605 of 2019

Gaje Singh

... Petitioner

Versus

Commissioner Karnal Division, Karnal and others

... Respondents
- 7)

CWP-626 of 2019

Sunil and others

... Petitioner

Versus

Commissioner Karnal Division, Karnal and others

... Respondents
- 8)

CWP-673 of 2019

Pardeep

... Petitioner

Versus

Commissioner Karnal Division, Karnal and others

... Respondents
- 9)

CWP-686 of 2019

Subhash

... Petitioner

Versus

Commissioner Karnal Division, Karnal and others

... Respondents
- 10)

CWP-693 of 2019

Ram Chander

... Petitioner

Versus

Commissioner Karnal Division, Karnal and others

... Respondents

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

Present: Ms. Pooja Jaglan, Advocate, for
Ms. Aashna Gill, Advocate,
for the petitioner in CWP-2073 of 2019.

Mr. J. S. Cooner, Advocate,
for the petitioner(s) in all cases except CWP-2073 of 2019.

Mr. Ankur Mittal, Addl. A.G., Haryana with
Mr. Saurabh Mago, DAG, Haryana and
Mr. P. P. Chahar, DAG, Haryana

Mr. Ranjit Singh, Advocate, for
Mr. S.S. Momi, Advocate,
for respondent No.4 in CWP Nos.374, CWP-489, CWP-568, CWP-
605, CWP-626, CWP-686, CWP-693, CWP-1318 of 2019 and
for respondent No.5 in CWP-2073 of 2019.

SUDEEPTI SHARMA, J.

1. All these civil writ petitions are taken up together for final disposal as common questions of law and facts are involved in these writ petitions.
2. The brief facts of the cases are that the Block Development and Panchayat Officer, Kaithal, filed an application under Section 7(2) of the Punjab Village Common Land Act, 1961 (hereinafter to be referred to as "the Act of 1961") before the Court of learned Assistant Collector 1st Grade, Kaithal and vide his order dated 28.11.1997 ordered the ejectment of the petitioners from the land in question and imposed a penalty of Rs.10,000/- per hectare per year from the year 1975-76 till the vacation of the land. An appeal was preferred against the same by the petitioners before the Collector, Kaithal which was dismissed on 27.11.1998. Against the order of the learned Collector, Kaithal, the petitioners filed revision petitions before the Commissioner, Ambala Division, Ambala Cantt., who vide

order dated 09.03.2004 remanded their cases to the learned Collector, Kaithal, to decide the same on merit after hearing both the parties and giving them opportunity to produce evidence after spot inspection. In compliance of order of the learned Commissioner, Ambala Division, Ambala, the learned Collector vide order dated 24.08.2004 remanded the case to Assistant Collector 1st Grade, Kaithal. The District Development and Panchayat Officer/Assistant Collector 1st Grade, Kaithal, vide order dated 26.10.2015 ordered the ejectment of the petitioners from the land in question and imposed Rs.10,000/- per hectare per year as penalty from the date of the filing of the application till vacation of the possession. Aggrieved by order of Assistant Collector 1st Grade, the petitioners filed appeal before the learned Collector, Kaithal, which was dismissed vide order dated 09.08.2016 and 25.10.2016. Further aggrieved by the order dated 09.08.2016 and 25.10.2016, the petitioners filed the revision petitions and prayed for acceptance of the same and dismissal of the application under Section 7(2) of the Act of 1961.

3. After hearing both the parties, the petitioners as well as the Gram Panchayat, the revision petitions filed by the petitioners were dismissed and orders dated 09.08.2016 and 25.10.2016 were upheld vide order dated 27.06.2018 which is impugned herein in these writ petitions.

4. Learned counsel for the petitioners contends that the Courts below did not appreciate properly the pleadings of the petitioners and the law applicable thereto and passed the impugned orders in an illegal and arbitrary manner.

5. Further, that the Courts below while passing the impugned orders did not consider that to maintain the petition under Section 7(1)(2) of the Act of 1961, the Gram Panchayat has to prove its ownership over the suit land, whereas as per

the revenue record, the proprietors of the village has considerable share in the suit land with the Gram Panchayat. As such the application under Section 7 (1) (2) of the Act of 1961 by the Gram Panchayat is not maintainable against the petitioners/proprietors.

6. Learned counsel for the respondents have argued on the lines of the impugned order dated 27.06.2018.

7. We have heard the learned counsel for the parties and after considering the whole record available on the case file, we conclude as under:-

i) In the present case Section 7 of the Haryana Village Common Land Act, 1961 is relevant and therefore the same is reproduced as under:-

*“7. **Power to put Panchayat in possession of certain lands.--** (1) An Assistant Collector of the first grade having jurisdiction in the village may, either suo moto or on an application made to him by a Panchayat or an inhabitant of the village or the Block Development and Panchayat Officer or Social Education and Panchayat Officer, or any other Officer authorised by the Block Development and Panchayat Officer, after making such summary enquiry as he may deem fit and in accordance with such procedure as may be prescribed, eject any person who is in wrongful or unauthorised possession of the land or other immoveable property in the shamilat deh of that village which vests or is deemed to have been vested in the Panchayat under this Act and put the panchayat in possession thereof and for so doing the Assistant Collector of the first grade may exercise the powers of a revenue court in relation to the execution of a decree for possession of land under the Haryana Tenancy Act, 1887.*

Provided that if in any such proceedings the question of title is raised and proved prima facie on the basis of documents that the question of title is really involved, the Assistant Collector of the first

grade shall record a finding to that effect and first decide the question of title in the manner laid down hereinafter.

(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 the rate of one percent of the Collector rate of the land per acre per annum with the ceiling of total penalty amount equal to ten percent of the current Collector rate of the encroached land], 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.

(3) The procedure for deciding the question of title under proviso to sub-section (1) shall be the same as laid down in the Code of Civil Procedure, 1908.

(4) If any person refuses or falls to comply with the order of eviction passed under sub-section (1), within ten days of the date of such order, the Assistant Collector of the first grade may use such force, including police force, as may be necessary for putting the panchayat in possession.

(5) Any person who is found in wrongful or unauthorised possession of the land or other immovable property in shamilat deh and is ordered to be ejected under sub-section (1), shall be punishable with imprisonment for a term which may extend to two years."

ii) In the order dated 27.06.2018 which is impugned herein, it has been observed after considering the revenue record that as per the revenue record the land in question is *Jumla Malkan* land which is owned by the Gram Panchayat since beginning and its income has been spent on development work of the Panchayat. Further, that the petitioners had taken the land on lease from 1974-75.

Later on, they refused to pay the lease amount as a result thereof ejectment petitions were filed against the petitioners. It was further observed that as per the revenue record, the Gram Panchayat is shown as shareholders whereas the petitioners are taking benefit by cultivation of land and paying nothing to the Gram Panchayat in the shape of *Patta/Batai* and further that major portion of the land is *Banjar Kadim* which, as per law, vests in the Gram Panchayat. Further, the petitioners throughout did not produce any document as per the requirement under Section 7 of the Act of 1961.

iii) A bare perusal of the above mentioned Section 7 of the Act of 1961 shows that the title is to be proved by the production of documentary evidence.

iv) In the present case, as per the revenue record the land in question is recorded as *Banjar Kadim* land and as per lease register, the land in question was given on lease in the year 1974-75. Further, as per *Jamabandi* for the year 1991-92 as was available before the Courts below, *Khewat* No. 738 min/717min, *Khatoni* No.1031 the name of owner is mentioned in column No.4 as “Gram Panchayat Deh 122463/123183 share, and Satpal s/o Man Singh s/o Mattu 720/123183”. In addition to above in column No. 5 the name of cultivator with description is mentioned as “Banarsi s/o Munshi s/o Bhramnand r/o of the village Gair Marusi”. The column No.9 of the *Jamabandi* is quite important wherein rate and No. the detail of rent paid by the tenant is mentioned as “Bila Lagan Bavajah Nazayaz Kabaz”. Therefore, as per the observation of the revisional authority, entry of column No.9 of the *Jamabandi* shows that the petitioners are in unauthorised occupation of the land in question, hence they could not be declared

as owners.

v) The litigation of the petitioners prolonged for about more than 10 years and no documentary evidence was produced by the petitioners to show that they are the owners of the land in question.

8. Therefore, in view of the above observation, we find no merit in these writ petitions, the same are dismissed.

9. All the pending applications, if any, stand disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

January 12, 2024
dinesh

Whether speaking	:	Yes
Whether reportable	:	Yes