

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

CWP-1620-2024
Reserved on: 01.02.2024
Pronounced on: 20.02.2024

GRAM PANCHAYAT ASSAN KALAN, TEHSIL AND DISTT.
PANIPAT.Petitioner

Versus

STATE OF HARYANA AND ORS.Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE LALIT BATRA

Argued by: Mr. Som Nath Saini, Advocate
for the petitioner.

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

SURESHWAR THAKUR, J.

1. Through the instant writ petition, the petitioner-Gram Panchayat prays for a mandamus being made upon respondent No. 2 to decide the ejectment applications filed under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (as applicable to Haryana) (hereinafter for short called as the 'Act of 1961') by it, given the fact that the question of title as raised under Section 13-B of the 'Act of 1961', rather has already been decided in favour of the Gram Panchayat.

Brief facts of the case.

2. That one Pala and others filed a representative suit under

The Gram Panchayat contested the said suit and pleaded that the land in question vests in the Gram Panchayat and the mutation has been rightly sanctioned. The learned Assistant Collector First Grade after allowing the parties to adduce evidence recorded its finding that as per record the plainfiff and respondent No. 1, do not have any connection, with this land, as, the disputed land does not fall within the definition of *shamlat deh*. However, under issue No. 10, the following findings were recorded;

“ As all the issues had already been decided, therefore, there is no necessity of giving detailed decision on all the issues. Even otherwise, after promulgation of Act No. 9 of 1992, the plaintiffs should have filed the present suit under Section 7 – A (ii) regarding their ownership, but they have not done so. The plaintiffs should have impleaded the legal representatives of the persons who died prior to and during the pendency of the suit, but they have not impleaded the legal representatives of the deceased persons. Therefore, in view of the aforesaid facts the suit filed by the plaintiffs is not maintainable and is being dismissed.....”

3. That thereagainst three appeals were filed before the appellate authority, all of which were decided by the Appellate Authority, through a common judgment. The Appellate Authority through an verdict made on 11.03.2000, on the appeals (supra), thus dismissed the appeals filed by Pala etc. and Paltu and set aside the order passed by the Court below. The appeal filed by the Gram Panchayat, and, one Maman were accepted and it was held that the disputed lands vest in Gram Panchayat Assan Kalan.

4. The said order of the learned Appellate Authority was challenged by filing revisions petitions before the learned

Commissioner Rohtak Division, Rohtak. The said revision petitions vide order dated 14.02.2003, were dismissed by the learned Commissioner, Rohtak.

5. Feeling dis-satisfied, from the afore, the aggrieved preferred two writ petition(s) respectively bearing nos. CWP-8272-2003 and CWP-17386-2003 before this Court. Both the writ petition(s) were dismissed through a common order made by this Court, on 01.11.2012. The relevant part of the verdict is extracted hereinafter.

CWP-8272-2003

“ In view of what has been stated hereinabove, the writ petition is dismissed by holding that the land, in dispute, though described as Shamilat panna, vests in the Gram Panchayat, as 'charand' and 'johar', and, therefore, cannot be excluded from shamilat deh. The writ petition is accordingly dismissed.

CWP-17386-2003

“ The petitioner did not file a suit for declaration of title but as he is prima-facie a member of the panna, he had a right to file a revision before the Financial Commissioner. However, as the writ petition filed by other proprietors has been dismissed by holding that the Gram Panchayat is owner of the land, in dispute, the writ petition must also meet the same fate. Dismissed.”

6. The afore verdict became challenged before the Hon'ble Supreme Court, however, the same was got dismissed as withdrawn. Thereafter, review application(s) were preferred before this Court seeking review of the order dated 01.11.2012 (Annexure P-1), as made by this Court on the writ petition(s) (supra). However, the said review

7. After conclusion of the aforesaid proceedings, the petitioner-Gram Panchayat took possession of the land in question vide rapat roznamcha No. 400 by passing resolution dated 23.07.2013 and thereafter the land has been leased out to different persons.

8. The petitioner-Gram Panchayat filed ejectment petition thus in the year 2014, under Section 7 of the 'Act of 1961', seeking thereby ejectment of unauthorized occupants over the disputed lands. However, respondent No. 2, through its order drawn on 18.07.2017, on the said application adjourned the said petition *sine die*, owing to the pendency of the civil suit.

9. It is further averred in the writ petition that the private respondents again filed a title suit qua part of the disputed lands whereby mutation No. 1184 became challenged. The Gram Panchayat filed written statement in the said suit and even filed an application under Order 7 Rule 11 CPC. During pendency of the above said suit, the private respondents filed an application for stay before the learned Collector on 31.05.2019. On the said application, the learned Collector ordered to maintain status quo till further orders.

Inference of this Court.

10. Since the conclusivity and finality is acquired by the decision made by the Hon'ble Apex Court on the apposite SLP. The said SLP became dismissed as withdrawn, thus, given the decisions respectively made by the Assistant Collector First Grade, by the Appellate Authority, by this Court in the writ petition(s) (supra) as well as in the review application(s), thereby no vestige of title is left in the private respondents in the instant writ petition rather over the suit lands

disputed lands.

Final Order of this Court.

11. In consequence, the learned Assistant Collector concerned seized with the ejectment petition concerned is directed to forthwith take up the said eviction petition and is also directed to within three months from today make a lawful speaking decision thereons but after hearing all affected persons concerned.

12. The writ petition is disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

20.02.2024

kavneet singh

(LALIT BATRA)
JUDGE

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