

118

THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.1909 of 2024

Date of Decision:30.01.2024

Mehar Singh

..... Petitioner

Versus

Joint Development Commissioner, Rural
Development and Panchayats Department,
Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Inderjit Sharma, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (ORAL)

Present writ petition has been filed for quashing the impugned order dated 28.11.2023 (Annexure P-8) passed by the Court of respondent No.1 i.e. Joint Development Commissioner (I.R.D.), whereby an appeal bearing No.PUN/JDC/EVP/2023/000099 dated 10.02.2023 titled as “Mehar Singh vs. Gram Panchayat Jandwal” under Section 9 of the Punjab Public Premises and Lands (Eviction and Rent Recovery) Act, 1973 filed against the impugned order dated 06.01.2023 (Annexure P-3) passed by respondent No.2 i.e. District Collector-cum-District Development and Panchayat Officer, Pathankot has been wrongly and illegally dismissed and order dated 06.01.2023 has been illegally and unlawfully affirmed and upheld by allowing the application under Sections 5 and 7 of the Punjab Public Premises and Lands (Eviction and

Rent Recovery) Act, 1973 preferred by respondent No.3 by misappreciating the facts and circumstances as well as settled principle of law. Further prayer has been made for staying the operation of impugned order dated 28.11.2023 as well as impugned order dated 06.01.2023 till the final adjudication of the present petition.

It has been contended by learned counsel for the petitioner that the Gram Panchayat, Jandwal, Tehsil and District Pathankot i.e. respondent No.3 has filed an application dated 21.06.2022 under Sections 5 and 7 of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 (hereinafter referred to as 'the Act') against the petitioner for eviction from the Panchayat land i.e. "*Gair Mumkin Talab*" comprised in Khasra No.446 Khewat No.141/132, Khatauni No.246 of village Jandwal, Tehsil Dhar Kalan, District Pathankot before respondent No.2 i.e. District Development and Panchayat Officer (exercising the Powers of Collector, Pathankot). He submits that the petitioner appeared before the Court of respondent No.2 on 01.07.2022. He submits that the application filed was illegally accepted by respondent No.2 vide his order dated 06.01.2023. Being aggrieved by the same, the petitioner filed an appeal under Section 9 of the Act before respondent No.1 i.e. the Joint Development Commissioner. He has submitted that the learned Appellate Court by misappreciation of the evidence on record, dismissed the appeal filed by the petitioner vide impugned order dated 28.11.2023. He has submitted that both the Courts below i.e. respondents No.1 and 2 have failed to appreciate the averments made by the petitioner and thus, passed the impugned order in a cryptic manner by directing eviction of the

petitioner from the land in dispute. He submits that before passing the eviction proceedings, the necessary demarcation was not carried out by the revenue authorities and thus, location of the Khasra No.446 is not ascertained. Learned counsel for the petitioner submits that land of the petitioner is abutting Khasra No.446 and as there is no demarcation carried out, thus the impugned order being unsustainable in the eyes of law, deserves to be set aside.

Heard.

On hearing learned counsel for the petitioner and perusing the record, it is revealed that land measuring 17-0 comprised in Khewat No.141/132 Khatauni No.246, Khasra No.446 is described in the revenue record as “*Gair Mumkin Talab Jumla Malkan Wa Digar Haqdaran Hasab Rasad*”. The Gram Panchayat has filed an application under Sections 5 and 7 of the Act for eviction of the petitioner. Notice was served by the Collector and the evidences were led by both the parties. On hearing learned counsel for both the parties and perusing the evidence on record, it was found that the land in dispute was Jumla Mustarka Malkan and as per Section 23-A of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 and Rule 16(ii) of the Rules 1949, the land recorded as Jumla Mastarka Malkan is managed and controlled by the Gram Panchayat. This land cannot be even re-distributed by the proprietors of the village and the same is used for the common purposes. Thus, eviction of the petitioner was ordered by the Collector by following the due process. In the appeal filed by the petitioner, both the sides were again heard and the evidences on record

and relevant law was duly appreciated. The eviction of the petitioner has been made by the respondents authorities pertaining to Khasra No.446 (17-0) which is *Gair Mumkin Talab*. The ownership of the same is vests in the Gram Panchayat which is managed and controlled by the Gram Panchayat as per Section 23-A of the East Punjab Holdings (Consolidation and Fragmentation) Act. It is apparent from the impugned order passed that the eviction order of Khasra No.446 (17-0) does not have any connection with the land bearing Khasra No.445/1(1-17) owned by the petitioner. Thus, the contention raised by learned counsel for the petitioner that land of the petitioner would be encroached upon by the respondent-State is totally misconceived. The petitioner has been evicted from Khasra No.446 and thus, the respondent-State is bound to take the further action only in accordance with the eviction order passed against the petitioner.

Thus, in the overall facts and circumstances of this case, this Court does not find any infirmity in the impugned order passed. Hence, the present petition being devoid of any merit is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

30.01.2024
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No