

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-16695-1994
Reserved on: 12.02.2024
Date of Decision : February 20, 2024

KHAZAN SINGH (DECEASED) THROUGH HIS LR's
...Petitioners
V/S
THE STATE OF HARYANA AND OTHERS
...Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present : Ms. Salina Chalana, Advocate
for the petitioners.

Mr. Ankur Mittal, Addl. AG Haryana with
Mr. Pradeep Parkash Chahar, Sr. DAG, Haryana and
Mr. Saurabh Mago, DAG, Haryana.

Mr. Ramesh Hooda, Advocate
for respondent No.3-Gram Panchayat.

SURESHWAR THAKUR, J.

- Through the instant petition, a challenge is made to the concurrently made orders of eviction as respectively embodied in Annexure P-11 and P-14, and, as became rendered respectively by Assistant Collector concerned, and, by the Collector concerned.
- That the petitioner-Khazan Singh's grandfather Sunder Ram was in possession of land measuring 82'x38' approximately, since the year 1947. It is situated between National Highway No.10 leading from Rohtak to Delhi. The said land falls in Khasra No.451/1.

3. That the petitioner's grandfather constructed a temple on the said land in the memory of his father Sunder Ram, wherein, a Shivling was kept for worship, besides there is a well on the said land which was used for drinking and household purposes, as there is no drinking water available around the house.

4. There was a move to acquire the said land by the Land Acquisition Collector, Haryana vide its communication LAO/69/2496, dated 14.08.1969, published on 26.08.1969. The petitioner represented to the Collector concerned, on 26.09.1969 with a prayer that the said land be left out of acquisition, as there is a mandir constructed over the said land, besides there is a Shivling, and, a well.

5. That the petitioner received a notice dated 06.10.1969 from Land Acquisition Collector concerned, that he should file objections under Section 5-A of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act of 1894"). Subsequently, the petitioner made a representation dated 24.01.1970 before the Land Acquisition Collector concerned, to consider his case sympathetically, and, the request of the petitioner was acceded, and, the land of the petitioner was left out of acquisition proceedings by the Land Acquisition Collector concerned, vide his communication dated 30.01.1970.

6. Thereafter, the Gram Panchayat concerned, filed an eviction petition under Section 7 of the The Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as "the Act") against the petitioner, and, the same resulted in an order of eviction becoming passed against the petitioner by the Assistant Collector concerned, on 04.11.1993 (Annexure P-11), and, also by the learned Collector concerned, through

7. During the course of the consolidation proceedings which became conducted in the *mohal* concerned, in the year 1958-69, the disputed lands became allotted to the Gram Panchayat concerned, and, also mutation of ownership became recorded in respect thereof *qua* the Gram Panchayat concerned.

8. The above allotment, as made to the Gram Panchayat, and, also the mutation (*supra*), as became entered in favour of the Gram Panchayat concerned, became challenged before the learned Assistant Collector concerned.

9. For the said challenge to thus succeed, it became but enjoined, upon the present petitioners to adduce evidence *qua* prior to the consolidation operation becoming conducted in the *mohal* concerned, the petitioners were entered in the pre consolidation records to be the owners in possession of the disputed lands, and, that the said lands became allotted to the Gram Panchayat concerned, but after an excessive *pro rata* cut becoming imposed vis-a-vis their legitimate holdings, thus by the consolidation officer concerned. However, a perusal of the record reveals, that rather than the predecessor-in-interest of the petitioners, one Lal Chand who has also not been established to be the predecessor-in-interest of the petitioners, rather was entered in the jamabandi for the year 1831-40 to be owning the disputed lands.

10. The consolidation operations occurred much belatedly therefrom, inasmuch as, in the year 1958-59, and, on culmination thereof, the disputed lands became allotted to the Gram Panchayat concerned.

Though one Lal Chand, was entered in the pre consolidation records relating

to the year 1831-40 to be owing the suit lands, thereupon either the said or

his proven successor-in-interest alone become well capacitated to constitute an able challenge to the earmarkings of the disputed lands, in the consolidation scheme thus to the Gram Panchayat concerned. However, no such evidence has emerged, thus displaying that either the present petitioners are the successors-in-interest of Lal Chand nor any evidence becomes adduced that even the lawful successors-in-interest of the said Lal Chand, thus protested against the earmarkings of the disputed lands vis-a-vis the Gram Panchayat concerned, thus before the updation of records, as occurred in terms of Section 22 of the The East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948.

11. In consequence, it has to be necessarily concluded, that neither the present petitioners, are the successors-in-interest of Lal Chand, besides it is also to be concluded that none of the lawful successors-in-interest of the said Lal Chand, made any protest against the finalized consolidation scheme whereby the disputed lands rather become assigned to the Gram Panchayat concerned. Resultantly, thereby they are deemed to acquiesce to the earmarkings in the consolidation scheme of the disputed lands, vis-a-vis, the Gram Panchayat concerned.

12. In sequel, the present petitioners are but necessarily to be concluded to become completely estopped, from making any able challenge to either the attestation of mutation of ownership, whereby *qua* the disputed lands ownership became conferred *qua* the Gram Panchayat concerned, nor they are entitled to claim any re-partition or re-allotments or disbursement of the disputed lands to them, on the purported ground, that excessive *pro rata* cuts were made from their legitimate holdings, and/or, that now the lands as

became snatched from their legitimate holdings, but after *pro rata* cuts being

made vis-a-vis the disputed lands, rather are not used for the village common purposes, thus therebys, they are entitled to re-partition or re-allotment of the disputed lands to them.

13. Furthermore, since the disputed lands have been acquired, and, also when compensation in respect of the acquired lands has been disbursed to the Gram Panchayat Sankhol. Pre-eminently also when there is no protest made by the present petitioners against the disbursement of compensation to the Gram Panchayat concerned, thus through theirs raising a petition under Section 30 of the Act of 1894, before the Collector concerned, for thereafter the same being transmitted to the learned Reference Court.

14. Consequently, it has to be concluded that the petitioners have as such accepted the Gram Panchayat Sankhol to be the lawful owner of the disputed lands. Moreover, thereby they are estopped to contest the petition for eviction as laid against them by the Gram Panchayat concerned.

15. In view of the above made inferences, and, observations the instant petition sans any merit, and, is dismissed as such, and, the impugned orders are affirmed and, upheld.

(SURESHWAR THAKUR)
JUDGE

20.02.2024

Ithlesh

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

(SUKHVINDER KAUR)
JUDGE