

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-16696-1994

Reserved on: 12.02.2024

Date of Decision : February 20, 2024

KALI RAM (DECEASED) THROUGH HIS LRs AND OTHERS

...Petitioners

V/S

STATE OF HARYANA AND OTHERS

...Respondents

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

Present : Mr. Akshay Bhan, Senior Advocate with
Mr. Santosh Sharma, 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.

1. Through the instant petition, a challenge is made to the concurrently made orders of eviction as respectively embodied in Annexure P-3 and P-5, and, as became rendered respectively by Assistant Collector concerned, and, by the Collector concerned.

2. During the course of the consolidation proceedings which became conducted in the *mohal* concerned, in the year 1968-69, 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.

3. 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.

4. 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.

5. The consolidation operations occurred much belatedly therefrom, inasmuch as, in the year 1968-69, 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.

6. 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.

7. 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.

8. 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 Land Acquisition Act, 1894, before the Collector concerned, for thereafter the same being transmitted to the learned Reference Court.

9. 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.

10. 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