

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-7272-1996
Reserved on: 10.01.2024
Date of Decision : January 22, 2024

SIRI RAM AND OTHERS
...Petitioners
V/S
THE COLLECTOR, DISTRICT FARIDABAD AND OTHERS
...Respondents

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

Present : Mr. Chirag Kundu, Advocate
for the petitioners.

Mr. Pradeep Prakash Chahar, Sr. DAG, Haryana.

Mr. Amit Jain, Senior Advocate with
Mr. Chetan Salathia, Advocate
For respondent No.3.

SURESHWAR THAKUR, J.

1. The instant writ petition is directed against the concurrently made verdicts of eviction passed respectively, by the learned Assistant Collector concerned, and, by the Appellate Authority concerned. The said concurrently made verdicts of eviction are respectively comprised in Annexures P-3, and, in P-4.
2. The short ground as raised by the learned counsel for the petitioners, in theirs challenging the validity of annexures (supra), is comprised, in the Authorities below, repelling the contention of the

petitioners herein, that they were holding possession of the petition lands, as

“Gair Marusi”. The above ground, is contended to be supported by the conclusions recorded in Annexure P-1, whereby, the learned Appellate Court, after setting aside the denial of the espoused decree of the permanent prohibitory injunction to the plaintiffs therein-the petitioners herein, rather by the learned trial Judge concerned, thus proceeded to assign the decree of prohibitory injunction, to the plaintiffs, thus premising the said affirmative decree, on a conclusion, that the plaintiffs were tenants over the petition lands. Annexure P-1, as revealed by Annexure P-2 became affirmed by this Court.

3. Learned counsel for the petitioners, therefore, argues that when Annexure P-1 became affirmed by Annexure P-2 whereby, the present petitioners became declared to be tenants over the petition lands. Resultantly, he argues that since the petition for eviction was instituted subsequent to the makings of Annexure P-1 and P-2, thereby in contradiction to the above binding and conclusive findings, the impugned annexures could not deny the status of tenant(s) to the petitioners over the disputed lands nor could thereby Annexures P-1 and P-2 an order of eviction could be made against them.

4. However, apparently, in the wake of the making of the above argument, the learned counsel for the petitioners but concedes, that the petition lands are owned by the Gram panchayat concerned.

5. The effect of the above concession, is but naturally, that irrespective of the Statutory Authorities below, in contradiction to the binding and conclusive declarations, as, made respectively in Annexure P-1 and P-2, whereby the present petitioners are inferred to be tenants over the

petitioners, who are not the owners of the disputed lands, but rather the Gram Panchayat concerned, is the admitted owner of the petition lands, thus being both valid and lawful.

6. Conspicuously, even otherwise in the operative part of Annexure P-1, which becomes extracted hereinafter, the learned Appellate Court concerned, after assigning the espoused decree of permanent injunction, to the plaintiffs, yet had reserved a right in the Gram Panchayat concerned, for seeking the ejectment of the plaintiffs, but in accordance with law, thus from the petition lands. Resultantly, it has to be, but concluded, that the above extracted portion of Annexure P-1, which became affirmed by Annexure P-2, did empower the Gram Panchayat concerned, to seek the eviction of tenant(s) over the disputed lands, who are the plaintiffs.

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The suit land is 63 kanals 5 marlas and its auction at Rs.1300/- for 5 years is quite perfunctory as in the year 1985 the land could be auctioned at more than 10 thousand per ayyear. Further, no other auction ever took place either earlier or lateron. The lease of Gram panchayat land if it is in possession of Gram Panchayat takes place year to yet another for a period of five years at a time. So, the plaintiffs are in possession of the land as tenant and as such, the findings of the learned Trial Court on issue No.1, 2 and 3 are set aside and the issues are decided in favour of the plaintiffs. Consequently the appeal is accepted. The suit of the plaintiffs is decreed for permanent injunction restraining the defendants Gram Panchayat for dispossession the plaintiffs from the suit land except in due course of law. No order as to costs. Decree sheet be prepared accordingly and file be consigned to record room.”

6. The reason for making the above conclusion, also stems from the factum, that a “Gair Marusi” over the disputed lands or in case the possession of the petitioner over the suit lands, is even otherwise rather not as “Gair Marusi” thereovers, rather is of trespassers, upon the petition lands.

Consequently, the possession over the disputed lands, rather of the

petitioners either as “Gair Marusi” or as trespassers thereon, was but as stated (supra), thus amenable to be curtailed, through a petition for ejectment being filed against them, thus before the Competent Statutory Authorities.

7. The learned counsel for the petitioners has argued, that the petitioners are only tenants over the petition lands, rather in terms of Annexure P-1 and P-2, therefore, they are not amenable for becoming evicted from the petition lands. However, when the said argument becomes completely repelled, especially in the wake of the operative part (supra), of Annexure P-1, becoming also accepted by Annexure P-2.

8. In sequel, but naturally the inevitable effect thereof, is that, the petition for eviction whereons Annexure P-3 became passed in favour of the Gram Panchayat rather was well constituted, besides the makings of the impugned annexures was based, upon a valid appreciation of the evidence on record, thus declaring that the decree-holder Gram Panchayat concerned, being the evident owner in possession of the suit lands, thus became entitled to seek the eviction of the petitioners from the petition lands.

9. In aftermath, there is no merit in the instant petition, and, the same is dismissed and, the impugned order of 31.01.1995 (Annexure P-3), and, impugned order of 07.09.1995 (Annexure P-4) are hereby affirmed.

(SURESHWAR THAKUR)
JUDGE

22.01.2024

Ithlesh

(LALIT BATRA)
JUDGE

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