

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-6694-2000
Reserved on: 12.03.2024
Date of Decision : March 19, 2024

BACHAN SINGH

...Petitioner

V/S

THE STATE OF HARYANA AND OTHERS

...Respondents

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

Present : Mr. J.S. Cooner, Advocate
for the petitioner.

Mr. Ankur Mittal, Addl. AG Haryana with
Mr. Saurabh Mago, DAG, Haryana.

Mr. Bhag Singh, Advocate
for respondent No.5-Gram Panchayat.

SURESHWAR THAKUR, J.

1. Through the instant writ petition, the petitioner challenges the concurrently made orders of eviction, as are respectively enclosed in Annexures P-1 to P-3, whereby the statutory authorities below proceeded to decree the Gram Panchayat's petition for eviction, as became constituted under the provisions of Section 7(i)(2) of The Punjab Village Common Lands (Regulation) Act, 1961.

2. The learned counsel appearing for the petitioner has vehemently argued before this Court, that since prior to the filing of the instant petition for eviction, at the instance of the Gram Panchayat concerned, the latter had instituted a petition for eviction petition in the year 1967, but when the said eviction petition was dismissed, and, when no appeal was raised thereagainst, thereby Annexure P-5, acquired binding and conclusive effect. Resultantly, it is argued that the binding and conclusive decision (Annexure P-5) barred and estopped the Gram Panchayat concerned, to in respect of the very same khasra numbers, as were enclosed in the earlier petition, thus raise a subsequent petition. Excepting the above, no further ground has been raised by the learned counsel for the petitioner to make a challenge qua the passing of the impugned order(s) of eviction, thus by the statutory authorities below.

3. The said ground would hold merit only when it became cogently established from the records, that the previous and the subsequent *lis*' were inter parties or were between similar parties, besides the petitioner was also required to establish that the khasra numbers in the earlier petition were similar to the khasra numbers in the subsequent petition.

4. However, it appears from a reading of the impugned decisions that the statutory authorities below after meticulously examining the records had made discernments, that the khasra numbers in the earlier motion, and, those in the subsequent motion rather were completely distinct. Consequently, in the face of the above distinctivity of khasra numbers in the earlier and in the subsequent *lis*, thereby the primary ingredient for applying

qua the subsequent motion, thus the estopping norm of constructive *res*

judicata, rather remains completely unsatisfied nor the subsequent motion became estopped to be raised, at the instance of the Gram Panchayat concerned.

5. In consequence, it is not permissible for the learned counsel for the petitioner to argue, that since Annexure P-5, acquired binding and conclusive effect, as such, the makings of a subsequent motion in respect of those khasra numbers, purportedly similar to the ones, as were carried in Annexure P-5, thus became barred to be so raised by the Gram Panchayat concerned.

6. Be that as it may, even a thorough perusal of the evidence reveals that in the jamabandi for the year 1985-86 (Ex.A-1 before the learned Collector concerned), the Gram Panchayat is recorded, as the owner of the suit lands, and, in Khasra Girdawari (Ex.A-2 before the learned Collector concerned), the petitioners are reflected to be in unauthorized occupation of the suit lands.

7. Furthermore, it is also evident from a close reading of the impugned order that the suit khasra number became reserved in the consolidation scheme as a school playground, and, yet the present petitioner holding unauthorized possession thereovers.

8. In addition, when it is also evident on a reading of the impugned orders that no evidence became adduced by the petitioner suggestive, that their unauthorized possession became protected, thus on anvil of theirs deriving any leverage from the apposite savings clause to the definition of *Shamlat Deh*. Resultantly, the present petitioner holds no right,

unauthorized occupation of the disputed lands, and, thereby his unauthorized possession over the disputed lands, is required to be curtailed through validating the impugned annexures.

9. In aftermath, there is no merit in the instant petition, and, the same is dismissed. The impugned order of 8.12.1995 (Annexure P-1), the impugned order of 31.3.1997 (Annexure P-2), and, the impugned order of 21.9.1999 (Annexure P-3) are hereby affirmed and upheld.

(SURESHWAR THAKUR)
JUDGE

19.03.2024

(LALIT BATRA)
JUDGE

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