

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-6728-2024
Date of Decision: 20.03.2024

Ram Dass alias Ram Kalan
.....Petitioner
Versus

State of Haryana and others
.....Respondents

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

Present: Mr. Vikram Singh, Advocate
for the petitioner.

Mr. Ankur Mittal, Additional Advocate General, Haryana and
Mr. P.P.Chahar, Sr. Deputy Advocate General, Haryana.

Sureshwar Thakur, J. (Oral)

1. The Sarpanch of Gram Panchayat, Rajapur, Panipat, District Panipat, issued, upon the petitioner herein a notice dated 11.03.2024 (Annexure P/4) drawn under Section 24(1) of the Haryana Gram Panchayati Raj Act, 1994 (in short 'the 1994 Act'). The contents of the said notice are extracted hereinbelow:-

“The Gram panchayat is satisfied that Shri Ramdas S/o Shri Bharturam has illegally occupied 55 Kanal 9 Marlas Shamlat land. That you are ordered by notice under Section 24 (1) of the Haryana Panchayat Raj Act, 1994, that within 7 days, the period which is from 11.03.2024 to 18.03.2024 to remove the encroachment. If you want to give any clarification from your side regarding the panchayat order and if there is any proof then that should also be presented if you do not appear on the schedule date, the panchayat will take further legal action against you.”

2. Reply to the above notice was given, which is enclosed as Annexure P-5.

Submissions of the learned counsel for the petitioners.

3. The learned counsel for the petitioner submits, that the petitioner cannot be evicted by issuance of notices under Section 24 of 'the 1994 Act', especially when the remedy available to the aggrieved concerned, is to through a petition cast under Section 7 or a petition under Section 13-A of the Haryana Village Common Lands (Regulation) Act, 1961 (for short 'the 1961 Act') before the learned Collector concerned, thus seek eviction of the encroachers concerned, from the disputed land. However, instead of recouring the remedy (supra), as available to the Gram Panchayat concerned, yet notice under Section 24(2) of 'the 1994 Act' has been untenably issued against the petitioner, rather for evicting them from the disputed land(s). Thus, they are led to institute thereagainst the instant writ petition, hence for seeking the quashing(s)/settings aside, of the afore letters (supra), as well as the notice(s) (supra).

Inference of this Court.

4. Since this Court while deciding CWP-19864-2020 (Annexure P-6), had summarized the hereinafter principles, which but cover the common thereto(s) questions of law, as are also involved in the present writ petition.

“(i) The exercising of jurisdiction by the Gram Panchayat concerned, through recouring the relevant mandate(s) of Section 24 of the 1994 Act, may be a validly adopted recourse, but only when prior to the makings of the apposite notice, a valid demarcation of the sites concerned, is conducted, and, such notice is validly served upon the respondents concerned.

(ii) The consequent thereto drawing(s) of actions against the encroachers concerned, who raise constructions, upon the vacant places within the abadi deh, may also be a validly drawing action(s), but only when even prior thereto a valid demarcation of the sites concerned, is conducted by competent Revenue Officer:

(iii) The proceedings drawn under Section 24 of the 1994 Act, are summary in nature, thus recourse thereto may be avoided by the Gram Panchayat concerned, especially when evidence in respect of the lands concerned, falling within or outside the ambit of the apposite inclusionary clause, is required to be adduced, and, when such evidence may surface, not in summary proceedings, but may surface in fully contested proceedings, launched under Section 7 or 11 of the Haryana Village Common Land (Regulation) Act, 1961.

Conclusion

5. Thus, in view of the above summarized principles, it can be safely concluded, that when the proceedings drawn under Section 24 of 'the 1994 Act', are but summary in nature, and, when but evidence, in respect of encroachments being made upon the petition lands, may not surface in the said summary proceedings, but may surface only in fully contested proceedings, launched under Section 7 or 11 of the 1961 Act. Therefore, the issuance of notice(s) (supra) are construable to be made with the completest lack of application of mind and rather are rendered in a cryptic, slipshod and in an ill informed manner.

6. For the reasons (Supra), the impugned notice (supra), is quashed and set aside. However, the Gram Panchayat concerned, may hence through a

petition cast upon under Section 7 or 11 of the Act, before the Collector concerned, hence seek the eviction of the encroachers concerned, from the lands concerned, rather than through the drawings of notice (supra). On such a petition being filed before the Collector concerned, the latter shall but in accordance with law, and, after an opportunity of hearing being given to all the concerned, hence make a decision thereons rather positively within six months of its preferment. Till the said petition becomes instituted, thereupto the parties are directed to maintain status-quo, as of today, in respect of the disputed land. In case, the above petition becomes instituted before the Collector concerned, thereupon the respondents therein, may institute an application therein claiming an apposite interim relief, and, thereons a lawful order shall be promptly passed by the Collector concerned, but after granting an opportunity of hearing to all the concerned. However, it is clarified that the quashing of the notice (supra) shall not be construed as an influencing consideration, by the Assistant Collector First Grade concerned.

7. With the afore observations, the petition stands disposed of.

8. A copy of the verdict is directed to be forthwith circulated to the Additional Chief Secretary, Revenue to the Government of Haryana, and Additional Chief Secretary, Revenue to the Government of Punjab, for subsequently theirs making onward transmissions thereof, to all the District Collectors concerned, so that thereafter instructions are issued to all the Sarpanches of the Gram Panchayats concerned, in the State of Haryana

and in the State of Punjab. Moreover, compliance affidavit in respect of the above besides statistics and inputs with respect to the notices alike to the one being drawn, and the actions taken thereon, be placed before this Court on 18.07.2024.

(SURESHWAR THAKUR)
JUDGE

20.03.2024
Varinder Prashad

(LALIT BATRA)
JUDGE

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