

CWP-9014-2019 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-9014-2019 (O&M)

Reserved on: 23.01.2024

Date of Decision : February 5th, 2024

BALWINDER SINGH @ BURA AND OTHERS

...Petitioners

V/S

STATE OF HARYANA OTHERS

...Respondents

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

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

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

SURESHWAR THAKUR, J.

1. Gram Panchayat Ghaswa, Block Ratia, Tehsil Ratia, District Fatehabad, filed an eviction petition under Section 7(2) of The Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as “the Act”), before the learned Assistant Collector, Ist Grade, Ratia against the petitioners herein with regard to agriculture land measuring 112 Kanal 5 Marla. The said eviction petition, was allowed through an order of 18.07.2011, passed by the learned Assistant Collector concerned, order whereof becomes embodied in Annexure P-7.

2. The present petitioner challenged the said order (Annexure P-7), before learned District Collector concerned, through theirs filing an appeal. The learned District Collector concerned, vide order made on

20.03.2012 (Annexure P-8), accepted the appeal, and, resultantly remanded the lis to the Assistant Collector concerned, with a direction that out of the suit land Killa Nos.45//1/2/2, 10/1, 11/2, as bachat land, as this land is not reserved for common purpose in the Consolidation scheme, and to thus decide the title of the land accordingly.

3. Learned Assistant Collector concerned, again decided the lis against the present petitioners, through passing a verdict of ejectment on 24.05.2013, order whereof, is embodied in Annexure P-9.

4. The petitioners challenged the verdict of ejectment (Annexure P-9) through theirs raising a statutory appeal before the District Collector concerned. The District Collector concerned, through a verdict drawn on 04.08.2015, dismissed the statutory appeal preferred by the present petitioners, order whereof, is embodied in Annexure P-11.

5. Subsequently, the petitioners challenged both the orders as embodied in Annexure P-9, and, in P-11 through theirs filing a revision petition before the Commissioner, Hisar Division, Hisar. The same was also dismissed vide Annexure P-13.

6. Thereafter, the petitioners challenged all the orders passed against them, through theirs raising ROR No.381 of 2016-17, but the said ROR also stands dismissed vide Annexure P-15.

7. Through the instant writ petition, the petitioners have challenged all the orders as became passed against them.

8. The learned counsel appearing for the petitioners submits, with much vigor before this Court, that despite the scheme istemal, as prepared by the Consolidation Officer, thus make speakings that the petition lands

became reserved as "*Bachat Land*", yet no credit being assigned thereto.

Consequently, he argues that subsequent thereto entries, as occur in the revenue records, thus are in derogation of the above documents, and, thereby the said made entries in the jamabandis were required to be discarded.

9. However, for the reasons to be assigned hereinafter the submission (supra), is most idly raised, and, is liable to be rejected, and, is so rejected.

10. A perusal of the revenue records, as is also done by the Statutory Authorities below, makes candid disclosure, that the disputed lands, is entered in the ownership of Gram Panchayat. The said entry has a presumption of truth, and, in case no cogent evidence to rebut the efficacy of the said entry became adduced by the present petitioners, thereby an aura of conclusivity becomes garnered by the said entry.

11. Though, the evidence to rebut the presumption of truth assignable to the said entry is argued to be premised, on the scheme istemal wherein, there are purported echoings, that the disputed lands became not reserved as “*Bachat Land*” besides, therefrom though a conclusion may also become recorded, that the present petitioners though were owners of the disputed lands, yet no consequential theretos entries becoming recorded in the revenue records. Nonetheless, when a mutation of ownership became attested in favour of the Gram Panchayat concerned, in the year 1991, and, the same remaining unchallenged, thereby for want of any challenge being raised by the petitioners vis-a-vis the validity of the mutation (supra), whereby ownership of the disputed lands became conferred qua the Gram Panchayat concerned, thereby the petitioners are estopped from making any challenge to the corresponding thereto entries, as appear in the revenue

records, and, which make clear speakings that the disputed lands are owned by the Gram Panchayat concerned.

12. Be that as it may, if a bald simplicitor reliance is made, upon the scheme istemal Ex.D9, thus to rob the efficacy of the entries, in the revenue records rather disclosing the Gram Panchayat concerned, to be the owner of the disputed lands, the same is but both inadequate, and, insufficient.

13. The reason for making the above conclusion, generates from the factum, that unless the present petitioners had adduced into evidence the pre consolidation records, with echoings therein, that the disputed lands became owned by them, and, further that after pro rata cuts being made from the entire lawful land holdings of the present petitioners, thus the area of the disputed lands becoming reserved for the village common purpose, thereby the petitioners may have contended, that either the said imposed pro rata cut from the lawful holdings was disproportionate or was excessive, and, also then may have well raised an argument that, thus they were entitled to seek re-partition and redistribution thereof qua them. However, when neither the pre consolidation records thus making the above unfoldings nor the post consolidation records, became adduced, thereby there appears to be no strength in the submissions of the learned counsel for the petitioners, that despite in the pre consolidation records, the disputed lands being entered in their lawful ownership, and, despite excessive cuts being becoming thereons, yet the disputed lands becoming reserved for the village common purpose, nor thereby can he argue, that the petitioners have a right to seek re-partition and redistribution thereof to them.

14. Furthermore, Ex.D9 which is the scheme istemal, and, which may carry echoings, that the disputed lands were not reserved for the village

common purpose, but yet neither the finalized consolidation scheme became adduced on record nor when therefrom it could be well gauged that the said scheme istemal was or not drawn in alignment with the recommendations of the mushavra committee besides was or not in terms of the draft consolidation scheme, whereto rather valid objections became raised, besides became accepted, wherebys but the consequent thereto updations of record, may then be construable to be made in derogation theretos.

15. Therefore, non adduction of the documentary evidence (supra), rather for rebutting the presumption of truth attached to the revenue entries, thus assign no strength to Ex.D9, thus leads to a conclusion, that the scheme istemal Ex.D9, thus with speakings (supra), rather became rectified, thus leading to corresponding entries becoming made in the finalized consolidation scheme as well as, in the records of rights which became updated, on conclusion of the consolidation operations in the *mohal* concerned.

16. The sequel of the above inference is but naturally, that the unchallenged mutation conferring right, title and interest over the disputed lands, vis-a-vis the Gram Panchayat concerned, does acquire sanctity, besides the corresponding thereto entries in the revenue records, also gather an aura of sanctity. Conspicuously, since there is evidence on record suggestive, that the disputed lands were assigned on lease, to the lessees concerned, therebys besides especially also when the lease of the disputed lands became unchallenged, resultantly the petitioners are estopped to raise a claim of title, as owners to the disputed lands, consequently constraining this Court to assign vigor to the revenue entries declaring the Gram Panchayat

17. In aftermath, this Court finds no merit in the instant petition, and, is constrained to dismiss the same. Hence, the instant petition is dismissed, and, the impugned orders are maintained, and, upheld.
18. Pending miscellaneous application(s), if any, stand(s), disposed of.

(SURESHWAR THAKUR)
JUDGE

05.02.2024

Ithlesh

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

(SUKHVINDER KAUR)
JUDGE