

2024:PHHC:145355-DB



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(110)

CWP-11700-2024

Decided on : 07.11.2024

Kartar & others

.....Petitioner(s)

Versus

State of Haryana & others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE DEEPAK GUPTA**

Present: Mr.S.K.Aggarwal, Advocates for the petitioners.

Mr.Ankur Mittal, Addl.A.G. Haryana
Mr.Saurabh Mago, DAG, Haryana.

G.S. Sandhawalia, J.(Oral)

1. Prayer in the present writ petition, filed under Article 226/227 of the Constitution of India, is for quashing the order dated 03.09.2001 (Annexure P-5), order dated 16.12.2003 (Annexure P-6) and the order passed in revision dated 03.07.2006 (Annexure P-7) upholding the eviction proceedings regarding the land measuring 2 kanals 15 marlas, falling in Khasra No.64/4/2/1.

2. It is not disputed that the petitioners had challenged the said orders initially by filing a Civil Suit on 26.09.2006 in which he also prayed for being declared as Bisweddar and co-sharer of a larger chunk of land including disputed land falling in Village Bhartana, Tehsil Safidon, District Jind, which was dismissed on 14.02.2009 (Annexure P-8). However, in appeal, the petitioner's predecessor-in-interest was successful and the suit was decreed by the District Judge, Jind on 30.08.2010 (Annexure P-9).

3. The respondent No.5-Gram Panchayat preferred RSA-4019-2011 titled *Gram Panchayat of Village Bhartana Vs. Sunehri & others*, before this court and the same was allowed on 03.10.2018 by taking into consideration the fact that under Section 13 of the Punjab Village Common Lands (Regulation) Act, 1961 (as applicable to Haryana) (for short, the 'Act'), the Civil Court would have no jurisdiction to decide for *Shamlat*land. However, liberty was given to take recourse to remedy in law seeking adjudication of title to the suit property, in appropriate proceedings, by holding that the authorities cannot be restrained to recover possession of land which is subject matter of impugned orders. Relevant portion of the judgment read as under:

“Counsel for the respondent has failed to point out any document on record that has been proved in accordance with law sufficient to show that prior to filing of petition for eviction in respect of land measuring 2 kanal 15 marlas comprising khasra No.64/4/2/1, the appellant-panchayat filed eviction application qua that land and had been decided against the gram panchayat or constitutes res judicata in the present proceedings or amounts to review of earlier order in the light of judgment of Inder Singh’s case (supra). In this view of the matter, it can safely be held that jurisdiction of the civil court to examine legality or otherwise of the impugned orders is clearly barred under Section 13 of the Act. Resultantly, as the orders passed by the authorities with regard to eviction of the respondent under Section 7 of the Act cannot be challenged before the civil court and the same have attained finality for want of challenge before a competent Fora, the authorities under the Act cannot be restrained to recover possession of land, subject matter of impugned orders, in accordance with the procedure prescribed under the Act.

For the foregoing reasons, the appeal is allowed, impugned judgment and decree passed by the Court in Appeal are set aside. Suit filed by the respondent-plaintiff for declaration and injunction is dismissed leaving the parties to bear their own costs. However, nothing stated hereinbefore, shall cause prejudice to the respondent-plaintiff to take recourse to remedy in law seeking adjudication of title of the suit property, in appropriate proceedings.”

4. Nothing has been brought to our notice that the petitioners have taken recourse to file an application under Section 13-A of the Act regarding adjudication of the land. The present writ petition has been filed after a period of almost 6 years after the Regular Second Appeal had been dismissed whereby the said eviction orders were subject matter of challenge. The Learned Single Judge having dismissed the appeal and the said order having attained finality, inter-se the parties, we do not find any ground to entertain the present writ petition and set aside the findings recorded in the Regular Second Appeal which cannot be reviewed under Article 226 of the Constitution of India.

5. Resultantly, in view of the above discussion, the present writ petition is hereby dismissed.

(G.S. SANDHAWALIA)
JUDGE

(DEEPAK GUPTA)
JUDGE

07.11.2024
sailesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No