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

CWP No.16067 of 2020

Date of decision: 07.05.2024

Nahar Singh

..... Petitioner

versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Sunil Agnihotri, Advocate
for the petitioner.

Mr. Nirmaljit Singh Diwana, Sr. DAG, Punjab.

Mr. Kanish Ganeriwala, Advocate
for respondent No.7.

RAJESH BHARDWAJ J.

1. Present writ petition has been filed for directing the official respondents to investigate the matter that who has taken away the material of Rs.6,29,000/- (Annexure P-2) of the petitioner, during the demolition on dated 30.05.2018 made by the respondents and since 30.05.2018 petitioner and his family members are making request to the official respondents for the recovery of their material but till date no effect. Further prayer has been made for directing respondents No.3 and 4 to decide the representation of the petitioner dated 05.12.2019 (Annexure P-5) within a stipulated time in the interest of justice.



2. Learned counsel for the petitioner has submitted before this Court that the petitioner had taken the land from the Gram Panchayat in the year 1965 and raised a construction over the property in dispute. He has submitted that the petitioner had also got electric connection for this property. He has submitted that in the month of November/December, 2016, respondent No.9, namely, Baljit Singh and Kuldeep Singh i.e. father of respondent No.10, namely, Gurmit Singh started interfering in the agricultural land of the petitioner and upon that the petitioner filed a Civil Suit No.4/17 of 04.01.2017 titled as “Nahar Singh versus Kuldeep Singh and another” for permanent injunction. He submits that the Panchayat had given the land to the petitioner in the year 1965. However a petition under Section 7 of the Punjab Village Common Land Act, 1961 was filed before the learned District Development & Panchayat Officer, Ludhiana and vide order dated 02.02.2000, the ejectment order was passed against the petitioner. He has submitted that on passing the eviction order, the respondent authorities without giving any prior notice to the petitioner, demolished the structure. He submits that the action taken by the official respondents was against the law settled and thus the financial loss which has been caused to the petitioner by the State is liable to be recovered. He has submitted that the petitioner raised his grievances before the respondent authorities, however no action has been taken on the same.

3. On issuance of notice of motion, the respondent-State has filed the reply by way of affidavit of Parambeer Kaur, Block Development and Panchayat Officer, Samrala, District Ludhiana i.e. respondent No.5 on behalf of respondents No.1 to 3 & 5.



4. Learned counsel for the State has opposed the submissions made by learned counsel for the petitioner. He has submitted that the petitioner had already filed a civil suit for mandatory injunction and civil suit for recovery of damages/compensation for the same relief, which is pending adjudication before the Civil Court of Additional Civil Judge, Senior Division, Samrala and thus, the present petition is not maintainable. He submits that the petitioner was already evicted on 30.10.2017 and thus, he was in unauthorized possession of the Shamlat Deh, which belongs to the Gram Panchayat. He however submits that the petitioner again forcibly took over the possession of the same land. The Block Development and Panchayat Officer, Samrala had written to Sub Divisional Magistrate, Samrala vide letter dated 16.02.2018 for providing police help for evicting the petitioner again and restoring the possession to the Gram Panchayat. The warrants of possession were executed in 2018. He submits that the petitioner has concealed the material facts that notice of execution of warrants of possession was duly served upon him. He has vehemently contended that the issue involved in the present petition has already been raised by the petitioner in the civil suit filed by him. He thus submits that the present petition is neither maintainable nor there is any merit in the same.

5. Heard.

6. On hearing learned counsel for the parties and perusing the record, it is evident that the petitioner was evicted from the disputed land under the proceedings carried out under Section 7 of the Punjab Village Common Land Act, 1961. The warrants of possession were also issued.



Admittedly, the petitioner had already filed the civil suit, which is pending adjudication, wherein the grievances raised in the present petition are involved.

7. Thus, the contentions raised by learned counsel for the petitioner pertains to the disputed question of facts, which is beyond the jurisdiction of the Writ Court. Hence, this Court does not find it appropriate to entertain the same in the present writ petition. Accordingly, the present petition is disposed of with liberty to the petitioner to raise all his grievances in the Civil Suit which is pending adjudication before the Civil Court, Samrala.

07.05.2024
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(RAJESH BHARDWAJ)
JUDGE

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