



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

1. CWP No.16136 of 2024
Date of Decision: 17.07.2024

Mangat Ram and others ...Petitioners

Versus

State of Haryana and others ...Respondents

2. CWP No.16151 of 2024

Gurdeep Singh and others ...Petitioners

Versus

State of Haryana and others ...Respondents

3. CWP No.16257 of 2024

Gurnam Kaur ...Petitioner

Versus

State of Haryana and others ...Respondents

CORAM: HOB’BLE MR. JUSTICE G.S. SANDHAWALIA
HON’BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. S.S. Momi, Advocate
for the petitioner(s) in all the cases.

Mr. Ankur Mittal, Additional A.G., Haryana with
Mr. Saurabh Mago, D.A.G., Haryana.

G.S. Sandhawalia, J. (Oral)

Challenge in the present bunch of cases is to the order dated
30.03.2007 (Annexure P-1) passed by the Collector, Kurukshetra, which



was duly upheld on 14.08.2007 (Annexure P-2) by the Commissioner, Ambala Division and also approved by the Financial Commissioner, Haryana on 15.01.2020 (Annexure P-3).

2. A perusal of the order (Annexure P-3) shows that the Financial Commissioner has decided a bunch of 84 Writ Petitions while adjudicating on the controversy keeping in mind that these writ petitions involved similar facts and the law points which pertain to the suit land of Village Kalsa, Tehsil Pehowa, District Kurukshtra. Similarly situated persons filed ***CWP No.12080 of 2020*** titled as ***Labh Chand and another vs. State of Haryana and others***, which was also heard by the Co-ordinate Bench and dismissed on 09.09.2020 reported in ***2021(1) PLR 40***. In principle, the Co-ordinate Bench upheld the fact that the writ petitioners were in possession as a lessee and have filed suits in the Civil Court and obtained the collusive decrees of the land with the connivance of the elected member who admitted the claim of the petitioners and suffered the statement as such regarding the shamlat deh land measuring 9413 kanal 13 marlas, i.e about 1176 acres. The relevant portion of the judgment is reproduced as under: -

“18. It has come in the order of the Financial Commissioner, Haryana that land of the shamlat deh measuring 9413 kanal 13 marla i.e. about 1176 acres was given on lease to the petitioners and others in the year 1952 under the East Punjab Utilization of Lands Act, 1948. The petitioners did not vacate the land after expiry of the lease period and remained in unauthorized



possession without paying any rent to the Gram Panchayat. The petitioners filed suits in the Civil Court and obtained the collusive decrees of the land measuring 6531 kanal 11 marla i.e. about 816 acres because the then Sarpanch Mara Ram had admitted the claim of the petitioners and others and also suffered the statement admitting their claim. Besides this, the suit filed by the Gram Panchayat in order to challenge the decrees of the years 1973 and 1974 were also not contested by it and were dismissed for want of prosecution or evidence. Thus, the petitioners and others, who are otherwise not the owners, got a declaration of the ownership rights from the Civil Court though the land in dispute is recorded in the revenue record as shamlat deh hasab rasad zar khewat which cannot be owned by a person who is not a co-sharer or proprietor. The petitioners and others are admittedly not the co-sharers but were only in possession as lessee and there is no such law that a lessee can become the owner without purchasing the land in his possession. The ownership can be set up in an immovable property by way of sale, gift or exchange whereas the possession can be claimed by way of lease and mortgage.

19. The claim of the petitioners is that their decrees have been protected by this Court while deciding CWP No. 525 of 1975 is not acceptable because in the case of Gram Panchayat, Village Naulakha (Supra), the Hon'ble Supreme Court has held that the collusive degree obtained by fraud can be ignored in a subsequent suit/proceedings if question is raised and proved and it is



*not necessary to file an independent separate suit for setting aside such a decree, overruling the Full Bench decision of this Court in the case of **Gram Panchayat, Village Batholi Kalan Vs. Jagar Ram and Others; 1991(1) RRR 368**. It has also been observed by the Hon'ble Supreme Court in the case of Gram Panchayat, Village Naulakha (Supra) that "Further property of a public institution cannot be allowed to be jeopardised by persons who, at an earlier point of time, might have represented it and who were expected to effectively defend public interest and community property. Persons representing public bodies are expected to discharge their functions faithfully and in keeping with the trust reposed in them."*

20. Thus, we are of the considered opinion that if such type of decrees obtained by the petitioners and similarly situated other persons in collusion with the Sarpanch of the Gram Panchayat, for declaration of ownership, though they are not the owners of the land in question and were only in possession and the land is shamlat deh are protected then there would be a total chaos in the Society. Therefore, in view of the aforesaid facts and circumstances and discussion, we are of the considered opinion that there is no error in the impugned orders and therefore, the writ petition is hereby dismissed though without any orders as to cost."

3. The land-owners then tried their luck before the Apex Court also and **Special Leave to Appeal (C) No(s).11055-11097 of 2022** titled **Ranjeet Kaur and others vs. The State of Haryana and others** which was



also dismissed on 14.07.2022.

4. In such circumstances, we are of the considered opinion that the instant matter is squarely covered by **Labh Chand (supra)** and **Ranjeet Kaur (supra)** and there is no occasion to take a different view. The present writ petitions are hereby dismissed accordingly.

(G.S. SANDHAWALIA)
JUDGE

17.07.2024
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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: *Yes*
Whether Reportable: *No*