



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

1. CWP No.25529 of 2019
Date of Decision: 16.10.2024

Shakti Chand (deceased) through his LRs
...Petitioner

Versus

Director, Rural Development and Panchayat, Punjab
and others
...Respondents

2. CWP No.6951 of 2020

Joginder Singh and others
...Petitioners

Versus

Director, Rural Development and Panchayat, Punjab
and others
...Respondents

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

Present:- Mr. K.B. Raheja, Advocate
for the petitioner(s) in both the cases.

Ms. Arundhati Kulshreshtha, AAG, Punjab.

Mr. Jitender Singh Dadwal, Advocate
for respondent No.3 in CWP No.25529 of 2019.

Ms. Meenu Mumtaz, Advocate for
Mr. Munish Jolly, Advocate
for respondent No.3 in CWP No.6951 of 2020.

G.S. Sandhawalia, J.(Oral)

The present judgment shall dispose of two writ petitions
bearing *CWP Nos.25529 of 2019 & 6951 of 2020*. Since the manner in



which the ejectment order has been passed, is similar and both the cases are being decided together.

2. The facts have been taken from ***CWP No.25529 of 2019*** wherein the challenge has been raised to the order dated 31.05.2019 (Annexure P-2), whereby the appeal was dismissed by respondent No.1- Director, Rural Development and Panchayat, Punjab, against the order of ejectment dated 16.02.2016 (Annexure P-1) passed by respondent No.2- District Development and Panchayat Officer-cum-Collector, Hoshiarpur. The manner, in which the ejectment application has been allowed, without even any reference to the evidence as such, forces us to intervene since the finding has been recorded in a brief manner in the last two paragraphs of both the ejectment order and the appellate order.

3. A perusal of the paper-book would go on to show that apparently, the ejectment petition under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short 'the Act of 1961') was preferred by the Gram Panchayat for eviction of the present petitioner from 43 Kanals 03 Marlas of the land, detailed in the head-note of the eviction petition, situated in Village Narur, Hadbast No.464, Tehsil Dasuya, District Hoshiarpur, was subject matter of consideration. The averments from the order would be that since the petitioners were in illegal and unauthorized possession, therefore, the Gram Panchayat was unable to utilize the land.

4. Reference to the written-statement filed was mentioned by the authorities but the defence as such has not been even adverted to in the order. It is apparent that in support of their case, the petitioners examined as many as 04 witnesses, in contrast to just one statement of the existing



Panch of the Gram Panchayat, which is more formal in nature.

5. The perusal of the evidence also would go on to show that the stand as such was very clear that the petitioners were in occupation since long before 26.01.1950 and were cultivating the land and the land did not vest in Shamlat Deh. In spite of the said fact, the evidence was not even adverted to by the D.D.P.O. exercising the powers of Collector, who has passed the ejectment order dated 16.06.2016, while giving the following observations:-

“ Arguments of learned counsels were heard. After perusing documents attached with case, statements of witnesses and written arguments submitted by respondent, I am reached on this conclusion that as per fard Jamabandi for the year 2012-13, land in question is Shamlat Patti. According to which, respondents have illegal possession over land in question. Whereas respondents are claiming this land under their ownership. But they did not produce any material evidence to prove their ownership over this land and their illegal possession over this land proves. Therefore, application filed by plaintiff has been allowed and after passing eviction order against respondents, it is instructed that they after removing their illegal possession over land measuring 43 Kanal 2 Marlas comprised in Khewat No. 43//4 (8-0), 43//5 (8-0), 43//6 (8-11), 43//7 (8-0), 43/14 (4-19), 44//10 (6-2) situated in village Narur, Hadbast No.464, Tehsil Dasuya, District Hoshiarpur as per Jamabandi for the year 2012-13, hand over the possession to Panchayat within 30 days. In case of not handing over possession, possession will be taken through police. File after due compliance and execution



may be consigned to record room.”

6. In appeal, the categorical case again was that the appellants therein were in cultivating possession since 26.01.1950 and the land did not fall under the purview of Shamlat Deh. The Commissioner as such while dismissing the appeal, also failed to examine the evidence and the resultant legal effect, the reasoning given is as under:-

“ After hearing arguments of learned counsels for both parties and perusing record received in file, I am reached on this conclusion that as per record of Revenue Department and Jamabandi for the year 2012-13, land in question is Shamlat Patti which is under the ownership of Gram Panchayat Narur District Hoshiarpur. Land in question is common land of village. Appellant has illegally possessed land in question and after possessing illegally, appellant has not deposited any rent/ Chakota in the account of Gram Panchayat. Appellant could not give any concrete evidence before Ld. Court below to prove his ownership. Due to which, possession of appellant over land in question, proves illegal. Land in question vests in Gram Panchayat. Land in question is being used for common works of village since ancient time. Ld. Court below after affording full opportunity of hearing and producing record to both parties and after perusing record carefully, has passed order. Therefore, by upholding order dated 16.02.2016 passed by Ld. Court below and evicting appellant from land in question comprised in Khewat No. 546/653, Khatoni No.610, Khasra No.43//4 (8-0), 43//5 (8-0), 43//6 (8-11), 43//7 (8-0), 43/14 (4-19), 44//10 (6-2) total measuring 43 Kanal 2 Marlas, appeal has been set aside.

Order has been pronounced in open Court.”



7. Thus, it can be safely said that there is totally non-application of the mind by the said respondents while exercising quasi-judicial powers vested under the statute as such and we constrained to set-aside the said order and remand the matter for fresh decision with the direction that the evidence be taken note of and the defence as such which is in consonance with the provisions of the Act and the reasons be given to decide the application under Section 7 of the Act of 1961.

8. It is settled principle that reasons go to the root of the matter so that the superior authorities can examine the validity of the reasons of the statutory authorities while exercising the powers for eviction. The evidence which has, now, been placed on record would almost not be for the first time considered to adjudicate on the disputed issues, which was the bounden duty of the statutory authorities.

9. Resultantly, we allow the present writ petitions and set-aside the orders and remand the matter to the District Development and Panchayat Officer-cum-Collector, Hoshiarpur, who shall decide the same within six months from the receipt of certified copy of this order.

**(G.S. SANDHAWALIA)
JUDGE**

16.10.2024
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**(MEENAKSHI I. MEHTA)
JUDGE**

Whether speaking/reasoned: Yes
Whether Reportable: No