

(2011) 02 P&H CK 0371
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 20086 of 2009

Amar Kaur and Others

APPELLANT

Vs

Director Rural Development and Panahcyat Department and
Others

RESPONDENT

Date of Decision : 17-02-2011

Acts Referred:

Punjab Village Common Lands (Regulation) Act, 1961 — Section 7

Citation : (2011) 02 P&H CK 0371

Hon'ble Judges : Ajai Lamba, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Ajai Lamba, J.—This order shall dispose of four Civil Writ Petitions viz. CWP No. 20086 of 2009 (Amar Kaur and Ors. v. Director Rural Development and Panchayat Department, Punjab and Ors.), CWP No. 20089 of 2009 (Nahar Singh and Ors. v. Director Rural Development and Panchayat Department, Punjab and Ors.), CWP No. 20110 of 2009 (Balbir Kaur v. Director Rural Development and Panchayat Department, Punjab and Ors.) and CWP No. 20111 of 2009 (Amarjit Singh and another) as common questions of law and facts are involved.

2. For reference to facts, record of CWP No. 20086 of 2009 (Amar Kaur and Ors. v. Director Rural Development and Panchayat Department, Punjab and Ors.) is being taken up.

3. Persons, who claim to be proprietors of the village, have filed this writ petition in challenge to orders dated 31.8.2006 and 12.12.2008, Annexure P-29 and P-32, respectively, passed u/s 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short "the Act").

4. The short question raised by the learned Counsel for the Petitioners is that the revenue record does not indicate the ownership of Gram Panchayat since the year 1958-59. Learned Counsel for the Petitioners further asserts that no finding

has been recorded in the impugned orders that the land is shamlat deh; that during consolidation, the land was reserved for common purposes; that the land was ever used for common purposes; that the land is being utilized for phirni, pond, hadda rori or any other such common purpose, and yet, on the basis of a solitary revenue entry, order of ejectment of the Petitioners has been passed.

5. Learned Counsel for the Respondent-Gram Panchayat has not been able to controvert this factual position, in reference to impugned orders (Annexure P-29 and P-32).

6. I have considered the contentions of the learned Counsel for the parties.

7. The authorities u/s 7 of the Act were required to take into account the plea, as noticed in the arguments of the learned Counsel for the Petitioners. In such circumstances, the impugned orders cannot be upheld. The matter, however, cannot be left at that and, therefore, re-adjudication on the issue is required.

8. In view of the above, the petition is allowed. Orders (Annexure P-29 and P-32) are hereby quashed.

9. The parties shall appear before the Prescribed Authority authorized to deal with the matters u/s 7 of the Act, on 7.3.2011. It is made clear that the Petitioners would be at liberty to file their claim and material in support of the plea, as taken before this Court, before the Prescribed Authority.

10. After giving hearing to the relevant and affected parties, the Authority shall re-adjudicate the issue and pass orders, as required by law, by 30.6.2011.