

(2020) 09 P&H CK 0072

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 9543 Of 2020 (O&M)

Bhupinder Kumar

APPELLANT

Vs

Deputy Commissioner, Ambala And Others

RESPONDENT

Date of Decision : 16-09-2020

Acts Referred:

Punjab Village Common Land (Regulation) Act, 1961 — Section 7, 13
Haryana Panchayati Raj Act, 1994 — Section 51

Citation : (2020) 09 P&H CK 0072

Hon'ble Judges : S. Muralidhar, J; Avneesh Jhingan, J

Bench : Division Bench

Advocate : Harkesh Manuja, Ankur Mittal, Sandeep Lather, Ravinder Malik (Ravi)

Final Decision : Disposed Of

Judgement

DR. S. Muralidhar, J

1. The main grievance raised in the present petition is that the order of eviction dated 31st December, 2019, passed by the Assistant Collector Ist Grade, Barara, has not been implemented by the Respondent authorities. The Petitioner has further prayed for directions to the authorities to take possession of the land in question i.e., panchayati land/SHAMLAT DEH measuring 394 KANALS 14 MARLAS in Gram Panchayat Rau Majra, Tehsil Barara, District Ambala.

2. On 9th July, 2020, the following order was passed by the Court:-

"The matter has been taken up through video conferencing in the light of the pandemic COVID-19 situation and as per instructions.

Notice of motion.

Mr. Aman Bahri, Addl. AG, Haryana, accepts notice for respondents No.1 to 6, who are government officials.

Respondent to No.7 shall be served by the second respondent and compliance

report of the same shall be placed before this Court within one week from today.

In the meanwhile, it is seen that serious allegations are made, wherein the 7th respondent, Sarpanch of Gram Panchayat of Raumajra, Tehsil Barara, District Ambala, is involved in illegal cultivation of 394 kanals 14 marlas of panchayati land/shamlat land unauthorizedly, with the help of his relatives. The records would indicate that eviction proceedings were initiated against him under Section 7 of the Punjab Village Common Land (Regulation) Act, 1961, by the petitioner herein, who has secured an order of eviction on 31.12.2019. It is further stated that though an appeal is filed against the order dated 31.12.2019 passed in case No.212/VCL, before Assistant Collector 1st Grade, Barara, no stay is granted in favour of 7th respondent, who is said to be appellant in the said proceedings. The further grievance of the petitioner herein is that in spite of there being order of eviction, the same is not implemented by the Revenue Officials, who come directly under the supervision of 1st respondent-Deputy Commissioner. In the aforesaid facts and circumstances, this Court would call upon the Deputy Commissioner to conduct an enquiry and also see the role of each officer and file status report, as to why the order dated 31.12.2019 passed in case No.212/VCL is not implemented despite there being no stay. The aforesaid status report shall be filed by the Deputy Commissioner before the date fixed. It is further made clear that in the said report, he should state, what actions were taken by the officers for filing of FIR against 7th respondent. The status report in aforesaid form shall be filed in the Court within 15 days.

List this matter on 28.07.2020."

3. Pursuant to the above order, an affidavit of the Deputy Commissioner, Ambala dated 24th July, 2020 was filed, wherein, INTER ALIA, it has been, stated as under:-

"[...]3. That on 18th July, 2020 the encroachers were evicted from the land in dispute and possession of said land has been handed over to Panchayat of Village Rao Majra by the Block Development & Panchayat Officer, Barara. It is stated therein that the Block Development & Panchayat Officer, Barara submitted a report vide letter No. 1552 dated 18th July, 2020 to the Deputy Commissioner that the possession of the said land was handed over to the Gram Panchayat Rao Majra on 18th July, 2020 and copy of said letter is annexed herewith as Annexure R-3 for kind perusal of this Hon'ble Court.

4. That pursuant to show cause notice issued by the deponent, the Sarpanch of Gram Panchayat Rao Majra had submitted reply dated 17th July, 2020. Sh. Angrej Singh, Sarpanch of Gram Panchayat Rao Majra has also been afforded opportunity of personal hearing. He had taken plea that he was not having knowledge of said eviction order dated 31st December, 2019, hence, he could not file execution application before Assistant Collector, Ist Grade, Barara. The deponent had perused the said reply of Sarpanch of Gram Panchayat Rao Majra and same was found baseless as Gram Panchayat Rao Majra through its

Sarpanch had been impleaded as Respondents No.6 7 in the petition/application for eviction of land in dispute filed by Bhupinder Singh before Assistant Collector, Ist Grade, Barara. Keeping in view said facts, the deponent had directed DDPO, Ambala vide letter No. 1609, dated 20th July, 2020 to initiate action against Angrej Singh, Sarpanch of Gram Panchayat Rao Majra and notice as per provision of Section 51 of Haryana Panchayati Raj Act, 1994 has been issued to him. The copy of said letter dated 20th July, 2020 is annexed herewith as Annexure R-4. Appropriate action against the said Sarpanch shall be taken by the deponent after reply of show cause notice and hearing him as soon as possible."

4. It is further stated in the aforesaid affidavit that appropriate departmental inquiry will be initiated against officials who are found to be negligent, and appropriate action will be taken against them.

5. Mr. Harkesh Manuja, learned counsel for the Petitioner submits that as far as the eviction order dated 31st December, 2019 passed under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (as applicable to the State of Haryana) is concerned, an appeal has already been filed by Respondent No. 7, which is stated to be pending.

6. Learned counsel appearing for the contesting Respondents as well as for Respondent No. 7 vehemently argue that while passing the order dated 31st December, 2019, the Assistant Collector Ist Grade, Barara had failed to note the fact that there was a decree in their favour by the Civil Court, which had been passed way back on 30th April, 2005.

7. The Court finds that in the eviction order dated 31st December, 2019, there is, in fact, a discussion on the said decree, but it has rightly been noted therein that in view of Section 13 of the Punjab Village Common Lands (Regulation) Act, 1961 (as applicable to the State of Haryana), the said decree is to no avail. It may also be noted that the present Petitioner appears to have also instituted separate proceedings for declaring the said decree to be invalid.

8. Be that as it may, the fact remains that Respondent No. 7 could not have hidden behind such a decree to resist eviction from occupation of the SHAMLAT DEH land.

9. In that view of the matter, as far as the Petitioner is concerned, nothing survives for further consideration since possession of the land in question has now been handed over to the Gram Panchayat. However, it is clarified that it will be open to Respondent No. 7, if any enquiry against him results in an adverse order, to seek appropriate remedies in accordance with law. Further, the appeal stated to be pending against the order of eviction shall also proceed on merits, notwithstanding any observation made in this order.

10. The writ petition is accordingly disposed of.