
(1996) 11 P&H CK 0024

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 14334 of 1996

Daljit Singh and Others

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision : 07-11-1996

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1997) 115 PLR 553 : (1997) 1 RCR(Civil) 702

Hon'ble Judges : Sat Pal, J;Iqbal Singh, J

Bench : Division Bench

Advocate : I.S. Saggu, for the Appellant; G.S. Nagra, for the Respondent

Final Decision : Dismissed

Judgement

Sat Pal, J.—This writ petition has been filed by the petitioners challenging the order dated 1.8.1995 (Annexure P-2) passed by the Collector, Amritsar, exercising the powers of District Development and Panchayat Officer and the order dated 10.4.1996 (Annexure P-3) passed by the Appellate Authority i.e. Joint Development Commissioner (IRD) exercising the powers of Commissioner.

2. Briefly stated, the facts of the case are that the respondent-Gram Panchayat filed an application u/s 7 of the Punjab Village Common Lands (Regulation) Act, 1961 for eviction of the petitioners as they were in unauthorised possession of the land in question. The said application was allowed by the Collector, Amritsar vide orders dated 1.8.1995 (Annexure P-2). Aggrieved by this order, the petitioners filed an appeal which was dismissed by the Appellate Authority vide order dated 10.4.1996 (Annexure P-3). During the pendency of the appeal the petitioners filed Civil Suit No. 650 of 1995 seeking the relief of declaration to the effect that the petitioners were in peaceful possession of the land in question and further for a declaration that the order dated 1.8.1995 passed by the Collector, District Development and Panchayat Officer, Amritsar (Annexure P-2) was illegal. Alongwith this suit, the petitioners had also filed an application under Order 39 Rule 1 and 2 read with Section 151 of the CPC seeking stay of the order dated

1.8.1995. This application came up for hearing before the learned trial Court on 20.11.95 and the learned trial Court passed ex parte injunction staying the operation of the order dated 1.8.1995 (Annexure P-2). The order dated 20.11.1995 was challenged by the respondent-Gram Panchayat before learned Additional District Judge, Amritsar who vide his order dated 22.8.1996 allowed the appeal of the Gram Panchayat and vacated the interim stay granted by the learned trial-Court on 20.11.1995. The order passed by the learned Additional District Judge, Amritsar was challenged by the petitioners by filing Civil Revision No. 3640 of 1996 in this Court which was dismissed on 7.9.1996. It will be relevant to point out here that the petitioners have concealed the facts of filing the suit No. 650 of 1995 and the order passed by the learned trial Court on 20.11.1995, the appeal filed by the respondent-Gram Panchayat, the order allowing the appeal of the Gram Panchayat and also the facts regarding filing of Civil Revision No. 3640 of 1996 in this Court which was dismissed on 7.9.1996.

3. Notice of motion on this petition was issued on 25.9.1996 and dispossession of the petitioners was stayed on that date. Written statement on behalf of respondent-Gram Panchayat has been filed. In the written statement, a preliminary objection has been raised which reads as under:-

"That the petitioners have filed civil suit in the court of Civil Judge, Junior Division Tarn Taran and ad-interim injunction was granted in their favour. The answering respondent-Gram Panchayat filed an appeal before the Additional District Judge, Amritsar and the same has been accepted on 22.8.1996. The order of trial Court has been set aside and appeal filed by the Gram Panchayat has been accepted vide judgments dated 22.8.1996. The petitioners have filed civil revision No. 3640 of 1996 and the same has also been dismissed by this Hon"ble Court. The petitioners have concealed all these facts in the present writ petition and as such the same deserve to be dismissed on this ground alone. A true copy of the judgment dated 22.8.1996 passed by Addl. Distt. Judge Amritsar is attached as Annexure R-3/1."

4. Mr. Puri, learned counsel appearing on behalf of the respondent-Gram Panchayat drew our attention to the above-mentioned preliminary objection and submitted that since the petitioners have concealed the material facts of their filing the suit challenging one of the impugned orders dated 1.8.1995, the order passed by the learned first appellate court and the order passed by this Court in Civil Revision No. 3640 of 1996, the petition filed by the petitioners should be dismissed on this short ground of suppression of material facts.

5. Mr. Saggu, the learned counsel appearing on behalf of the petitioners, however, submitted that the suit filed by the petitioners was for permanent injunction and as such it was not relevant to mention about the filing of the suit or the orders passed by the learned first appellate Court and this Court.

6. After hearing the learned counsel for the parties and after perusing the record, we, however, find that the petitioners have suppressed the material facts which

are quite relevant for the adjudication of the present writ petition. A copy of the plaint of suit No. 650 of 1995 had also been shown to us and from the plaint, we find that the petitioners had sought the relief of declaration to the effect that the order dated 1.8.1995 passed by Distt. Development and Panchayat Officer, Amritsar (copy of which has been annexed as annexure P-2) with this writ petition), is null and void. The same order dated 1.8.1995 (P-2) alongwith order dated 10.4.1995 passed by the appellate authority (Annexure P-3) have been impugned in this writ petition. Since one of the impugned order itself was challenged in suit No. 650 of 1995, it was necessary for the petitioners to mention all the facts pertaining to the filing of the suit, orders passed by the learned trial Court on their application for stay, order passed by the learned first appellate Court allowing the appeal of the Gram Panchayat and the order passed by this Court in Civil Revision No. 3640 of 1996 filed by the petitioners. We are constrained to take a serious view for suppression of these material facts as concealing of these material facts, in our considered opinion, tantamounts to playing fraud on the Court. The view we have taken finds full support from a judgment of the Hon"ble Supreme Court in S.P. Chengalvaraya Naidu (dead) by L.Rs. Vs. Jagannath (dead) by L.Rs. and others, . The relevant portion from this judgment is reproduced below :-

"Non-production and even non-mentioning of the release deed at the trial tantamounts to playing fraud on the court. We do not agree with the observations of the High Court that the appellants-defendants could have easily produced the certified registered copy of Exhibit B-15 and non-suited the plaintiff. A litigant, who approaches the Court, is bound to produce all the documents executed by him which are relevant to the litigation. If he withholds a vital document in order to gain advantage on the other side then he would be guilty of playing fraud on the court as well as on the opposite party."

7. In view of the above discussion, we are of the opinion that the petitioners are not entitled to any relief from this Court in exercise of jurisdiction under Article 226 of the Constitution of India. Accordingly, the writ petition is dismissed with costs of Rs. 5,000/-