
(2011) 01 P&H CK 0317
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 1697 of 2011

Dhanna Ram

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 31-01-2011

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Punjab Village Common Lands (Regulation) Act, 1961 — Section 12(4)

Citation : (2011) 01 P&H CK 0317

Hon'ble Judges : Ajai Lamba, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ajai Lamba, J.—This petition has been filed under Article 226/227 of the Constitution of India, praying for issuance of a writ in the nature of certiorari, quashing resolution dated 8.12.2010(Annexure P-1) passed by Gram Panchayat, Hathira, Tehsil Thanesar, District Kurukshetra.

2. It appears that the Petitioner was ordered to be ejected by the authorities under the Punjab Village Common Lands (Regulations) Act, 1961, as applicable to State of Haryana (for short, "the Act"). Petitioner approached this Court by way of filing titled Dhanna Ram v. State of Haryana and Ors. Civil Writ Petition No. 17850 of 2009. While dealing with the petition, after issuance of notice of motion, the writ petition has been disposed of by passing the following order:

After addressing arguments for some time counsel for the Petitioner gives up challenge to the order of ejectment and prays that the Petitioner may be granted liberty to approach the Gram Panchayat for purchase the land in dispute by filing an application u/s 12(4) of the Punjab Village Common Land (Regulation) Rules, 1964 (As application to Haryana).

In view of the statement made by the counsel for the Petitioner, the impugned orders are affirmed and the writ petition is disposed of with liberty to the

Petitioner to file an application u/s 12(4) of the Punjab Village Common Lands (Regulation) Rules, 1964 before the Gram Panchayat for purchase of the land in dispute, which is the site of his house. In case, such an application is filed within 15 days, it shall be considered and decided within three months.

Dispossession of the Petitioner shall remain stayed for a period of three months.

Sd/- (RAJIVE BHALLA) JUDGE

September 24, 2010

3. The Petitioner filed an application before the authorities for purchase of land which has been declined vide impugned order, Annexure P-1. Annexure P-1 notices that the application has been made time barred and also that the Gram Panchayat is not ready to accept the cost of the land, possibly because of the nature of land.

4. Learned Counsel contends that an application was given however, no receipt was issued. Subsequently, a copy of the application was sent to Block Development & Panchayat Officer, Thanesar and Sarpanch of Gram Panchayat, by post which is appended as Annexure P-6. Application sent by post is dated 3.12.2010.

5. Above extracted order dated 24.9.2010 passed by the Writ Court makes it clear that the Petitioner was in unauthorized occupation of land and therefore, orders of ejectment passed under the Act were affirmed. The Petitioner was given liberty to purchase the land in dispute "in case such an application is filed within 15 days". Proof of the fact that application was filed, indicates that it was filed on 3.12.2010. Clearly, the application has been made after the period provided by order of this Court and therefore authorities were within their rights to reject the application of the Petitioner as being time barred.

6. Contention of learned Counsel for the Petitioner to the effect that application was given by hand, however, no receipt for the same was issued, cannot be accepted in the absence of any proof of the event.

7. The Gram Panchayat has decided not to accept money in lieu of the land that is under unauthorised occupation of the Petitioner. The Gram Panchayat has to utilise the land for purposes best known to it. The Writ Court will not, under such circumstances impose its own opinion so as to direct the Panchayat to transfer the land in favour of the Petitioner and accept money. Equity does not favour the case of the Petitioner. Facts and circumstances show that the Petitioner took possession of Gram Panchayat land in an unauthorised manner. Taking advantage of the possession, the Petitioner wants to become the title holder and owner. Court of law will not favour such conduct, so as to issue direction to Gram Panchayat to transfer the land by way of issuance of directions.

8. No ground for interference is made out, particularly because the Petitioner has been found in unauthorised possession of the Gram Panchayat land.

9. The petition is dismissed.