

(2011) 04 P&H CK 0184

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No's. 1308 and 900 of 2011

Fauja Singh and Others

APPELLANT

Vs

Gram Panchayat and Others
 Gurdial Singh Vs State of
Punjab and Others

RESPONDENT

Date of Decision : 05-04-2011

Acts Referred:

Evidence Act, 1872 — Section 116

Punjab Village Common Lands (Regulation) Act, 1961 — Section 11

Citation : (2011) 04 P&H CK 0184

Hon'ble Judges : Ajai Lamba, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ajai Lamba, J.—This shall dispose of two petitions viz. Civil Writ Petition No. 1308 of 2011 titled? Fauja Singh and Ors. v. Gram Panchayat, Kandipur, Tehsil Bassi Pathana, District Fatehgarh Sahib? and Civil Writ Petition No. 900of 2011 titled ? Gurdial Singh v. State ofPunjab and Ors.? as they involve similar questions of law and facts.

2. For reference to record, Civil Writ Petition No. 1308 of 2011 titled ?Fauja Singh and Ors. v. Gram Panchayat, Kandipur, Tehsil Bassi Pathana, District Fatehgarh Sahib? is being taken up.

3. On 24.01.2011, the following order was passed:

Challenge in this petition is to Orders Annexure P-3 to P-6.

It appears that the Petitioners filed a petition u/s 11 of the Punjab Village Common Lands (Regulations) Act, 1961, for declaration that they are owners in possession of the land. Vide Order dated 24.10.2007 (Annexure P-3), Collector, Development, Fatehgarh Sahib, on the basis of revenue record detailed at Page 19 of the paper book, recorded a finding that the applicants had been taking the land in auction, and therefore, cannot be presumed as owners of land in dispute.

Mutation has been entered in the name of Gram Panchayat by Consolidation Department which is correct. Gram Panchayat has been shown in revenue record as owner of land.

The Petitioners carried an appeal. Commissioner has dismissed the appeal while recording the following:

After perusing the written arguments of the counsel for the Appellants and arguments raised by the Gram Panchayat before the lower court and record on the file, I have come to the conclusion that in the jamabandies for the year 1973-74, 1978-79, 1983-84, 1988-89, 1993-94, 1998-99 and 2003-04, in the column of ownership Nagar Panchayat Deh is entered and in the column of cultivation, name of the Appellants is mentioned as Gair Marusiand in column No. 9 of all these Jamabandies, entry regarding taking of this land by the Appellants, on Chakota, is there. From which it is clear that Appellants had taken the land in dispute, from the Gram Panchayat, on Chakota and before it Gram Panchayat was also giving this land on Chakota and the income received from the same, is being used for the common purposes of the village. Division Bench of Hon'ble Punjab and Haryana High Court, in judgment reported as 2000(2) PLJ page 569 has clearly held that Chakotedar of the Gram Panchayat, cannot challenge the ownership of the Gram Panchayat. Appellants, themselves admit that mutation of the land in dispute, is in the name of Gram Panchayat. As per record, Appellants have never challenged this mutation, in any competent court. As per the orders passed by the Hon'ble Punjab and Haryana High Court in Sissa Singh Vs. State of Punjab 2005(4) RCR(Civil) page 656 that when once mutation of any land is entered in the name of Govt. or Gram Panchayat, through some govt. letter and affected persons has not challenged the same, in the revenue court then that becomes final and title of that land will be changed in the name of Gram Panchayat and Section 116 of the Indian Evidence Act 1870 will restrain, any person, from challenging the same that Gram Panchayat is not owner of the land in dispute. In this way, land in dispute vests in the Gram Panchayat and Gram Panchayat is its owner. Appellants have not produced any evidence from which it is proved that they in possession since 26.1.1950. Therefore, while dismissing the appeal, orders of the Lower Court are kept intact.

The Petitioners have been fair to the Court in placing on record the revenue record that forms the basis of passing Order dated 5.3.2010 (Annexure P-6), however, the record does not help the cause of the Petitioners in so much as in Annexure P-8 i.e. jamabandi for the year 1958-59, Nagar Panchayat Deh has been shown as owner and Maqbooja Panchayat Deh has been shown as cultivator. In the revenue record, after the year 1973-74, Nagar Panchayat Deh has been shown as owner and Darshan Singh as the cultivator.

Learned Counsel for the Petitioners contends that it is on the basis of a Government letter that Nagar Panchayat Deh was recorded as owner in the ownership column. Learned Counsel contends that the said order is required to be placed on record.

Learned Counsel further prays for time to place on record the first mutation under which the land was recorded in the name of Nagar Panchayat Deh.

Adjourned to 10.3.2011.

4. In view of the findings recorded by the Appellate Forum, as extracted above, learned Counsel for the Petitioners has not been able to show any perversity in the findings recorded by the authorities under the Punjab Village Common Lands (Regulation) Act, 1961. The Petitioners have been recorded as chakotedar viz. tenants. Nagar Panchayat Deh is entered in the column of ownership for the period 1973-74 to 2003-04. In the facts and circumstances of the case, where the Petitioners were obliged to discharge the onus of showing their title over the land and they having failed to do so, no interference in extraordinary writ jurisdiction is called for.

5. The petitions are accordingly dismissed.