

(2013) 08 P&H CK 0095
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 7003 of 2012

Gram Panchayat

APPELLANT

Vs

Director

RESPONDENT

Date of Decision : 14-08-2013

Acts Referred:

Citation : (2013) 08 P&H CK 0095

Hon'ble Judges : Jasbir Singh, J;Gurmeet Singh Sandhawalia, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Jasbir Singh, J.—Admittedly, Gram Panchayat is owner of three bighas of land falling in khasra Nos. 563 Min (2-10) & 565 Min (0-10) as per jamabandi for the year 2003-04. It is not in dispute that the said land was given on lease for a period of one year to the father of the private respondents in the year 1984. Thereafter, in the year 1986, the lease period was extended. On expiry of lease period, Gram Panchayat filed an application for ejectment u/s 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (In short "the Act"). The Collector, Patiala vide order dated 25.4.1997, of his own, extended lease for a period often years at the rate of Rs. 1,500 per year as rent with a condition that rent be increased at the rate of 10% thereafter. Lease period came to an end in the year 2007. On expiry of the period of extension, granted by the Collector, Gram Panchayat again filed an application for ejectment of father of the respondents No. 2 to 7. (In the meantime, father of the said respondent died). Respondents No. 2 to 7 were impleaded as legal heirs of deceased Sh. Barkha Singh. Vide the impugned order dated 31.8.2010 (Annexure P2), the Collector gave finding, qua ownership of the land in dispute, in favour of the Gram Panchayat, however, by noting that Atta Chakki has been installed in that land and the said unit has generated employment for family of the lessee, period was further ordered to be extended to ten years. The Gram Panchayat went in appeal which was dismissed on 21.12.2011 (Annexure P1). Hence, this writ petition.

2. When notice of motion was issued on 19.4.2012, following contention of counsel for the petitioner was noticed by this Court:-

"Counsel for the petitioner submits that the Collector has no jurisdiction, while deciding a petition u/s 7 of the Punjab Village Common Lands (Regulation) Act, 1961, to direct that the land be leased out to the unauthorized occupants."

3. It is stated in the writ petition that adjoining to the land in dispute, respondents' family also own land and further that the respondents belong to an affluent family and are not members of weaker section of the society. At the time of arguments, it was virtually admitted that the private respondents do own land adjoining to the land in dispute. By making reference to the provisions of Rule 6 of the Punjab Village Common Lands (Regulation) Rules, 1964 (in short "the Rules"), counsel for the petitioner states that there is no provision under which the Collector is competent to extend the lease period without consent of the Gram Panchayat. The Rules are reproduced at page 6 of the writ petition. Counsel for the private respondents has failed to refer to any of the Rules to say that the Collector has jurisdiction to extend lease period contrary to the decision taken by the Gram Panchayat not to extend it. The lease period has come to an end in the year 2007. Thereafter, an application was filed u/s 7 of the Act for ejectment. When disposing of that application, lease period was further extended to ten years.

4. We are of the opinion that no such jurisdiction lies with the Collector. It is specifically provided in Rule 20A of the Rules that in case after expiry of lease period, the lessee fails to vacate land of Gram Panchayat, he shall be liable to pay damages. Under no provision, power has been given to the Collector when deciding an application u/s 7 of the Act to extend the lease period without any resolution passed by the Gram Panchayat in that regard. In view of above, we feel that once the lease period is over, the private respondents cannot retain the land in their possession unless the lease is extended by the Gram Panchayat. In view of this, the writ petition is allowed. The orders, under challenge, are set aside and application filed by the Gram Panchayat u/s 7 of the Act, in view of the above facts, is allowed. The private respondents are ordered to be ejected from the land in dispute. The private respondents are given three months' time to vacate the premises on payment of rent for the said period. If they fail to do so, the Assistant Collector 1st Grade shall take action, as per law.