
(1998) 08 P&H CK 0115

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 1373 of 1992

Gram Panchayat

APPELLANT

Vs

Karam Singh and Others

RESPONDENT

Date of Decision : 25-08-1998

Acts Referred:

Punjab Village Common Lands (Regulation) Act, 1961 — Section 7

Citation : (1998) 120 PLR 701 : (1999) 1 RCR(Civil) 97

Hon'ble Judges : N.C. Khichi, J;Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : Arvind Singh, for the Appellant; V.B. Aggarwal, for the Respondent

Final Decision : Dismissed

Judgement

Jawahar Lal Gupta, J.—Smt. Jeewani and Karam Singh (respondent No. 1 in This appeal) filed a suit for "declaration to the effect that the land.....at village Jhinjharpur is owned and possessed by the plaintiffs" against the Gram Panchayat (the present appellant). This claim was made in respect of land measuring 46 kanals 2 marlas. The Gram Panchayat which is the appellant herein, conceded this claim. Resultantly, the suit was decreed on October 12, 1965. More than 12 years later the Gram Panchayat filed an application u/s 7 of the Punjab Village Common Lands (Regulation) Act, 1961, against respondent Karam Singh for his eviction. This application was allowed by the Assistant Collector, Ist Grade, Kaithal, vide his order dated November 20, 1979. The respondent filed an appeal which was dismissed by the Collector, Kurukshetra, vide his order dated November 3, 1980. Aggrieved by these two orders, copies of which have been produced as Annexures P-2 and P-3 on the record, Karam Singh filed a petition under Article 226 of the Constitution. It was urged on his behalf that the Panchayat had conceded the ownership and possession of the respondent and the suit had been decreed in the year 1965. Thus, he was the owner in possession. In such a situation, a clear question of title arose which had not been determined by the prescribed authority in accordance with law. This

contention having been accepted, the Gram Panchayat had filed the present letters patent appeal.

2. Learned counsel for the parties have been heard.

3. It is the admitted position that the Gram Panchayat had conceded the claim of the respondent in the Proceedings before the Civil Court. As a result the suit of the respondent for a declaration that he was owner in possession and for injunction against the Gram Panchayat had been decreed. This decree was in respect of the land which is in dispute in the present appeal. The Panchayat having acknowledged the title and possession of the respondent, cannot be permitted to say that a prima facie question relating to title did not arise in the proceedings before the Assistant Collector or the Collector. That being so, the procedure as laid down under the Act for determination of a question of title had to be followed. This was admittedly not done. Resultantly, the order passed by the learned Single Judge is in strict conformity with law. It calls for no interference.

4. No other point has been raised.

5. In view of the above, there is no merit in this appeal. It is, consequently, dismissed. No costs.