
(1995) 07 P&H CK 0103
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 14299 (O and M) of 1995

Gram Panchayat	Vs	APPELLANT
The Collector		RESPONDENT

Date of Decision : 20-07-1995

Acts Referred:

Punjab Village Common Lands (Regulation) Rules, 1964 — Rule 6

Citation : (1996) 112 PLR 528(1)

Hon'ble Judges : S.S. Sudhalkar, J;N.C. Jain, J

Bench : Division Bench

Advocate : S.S. Dinarpur, Arvind Singh and Satish Chaudhary, for the Appellant;

Final Decision : Allowed

Judgement

N.C. Jain and S.S. Sudhalkar, JJ.—This writ petition has been filed against the order of the Collector dated 15.9.1994. In order to appreciate the controversy it is necessary to have a brief look at the facts of the case.

2. The Gram Panchayat-petitioner in the present petition filed an application u/s 7(2) of the Punjab Village-Common Lands (Regulation) Act for ejectment of the tenant-respondent No. 3 on the ground that disputed land measuring 38 kanals 18 marlas was given to him on lease as a result of his being highest bidder, in the open auction for a period of one year i.e. 1990- 91 and that he became unauthorised occupant of the land after the expiry of the term of lease. The learned Assistant Collector vide his order dated 31.5.1994 ordered the ejectment of respondent No. 3. He was further directed to pay a penalty of Rs. 5,000/-per hectare. Respondent No. 3 filed an appeal before the Collector, Kurukshetra. Before the Collector, Kurukshetra, respondent No. 3 made the following statement;

"I do hereby make the statement that I am ready to deposit the lease money in respect of the land at the highest rate on which the land of the Gram Panchayat Jurassi Kalan has been leased out in the preceding 3 years. The possession of the

land be restored to me and penalty be waived off. If I fail to deposit the amount upto 22.2.1994 I may be taken as dispossessed from the land in question. I shall hand over the possession to the Gram Panchayat in the year 1995, but if I happened to be the highest bidder I shall be allowed to take the land in auction and retain the possession."

Agreed with the statement of respondent No.3 the case was accordingly decided and this is how respondent No. 3 continued to remain in possession of the disputed land till today.

3. Learned counsel for the petitioner has argued that the Sarpanch never conceded to the claim of respondent No. 3 and that it was the Law Officer who made the concession and he had no jurisdiction to concede. He has further argued that the land of the Gram Panchayat could be given on lease only by way of an open auction. Our attention has been drawn to the rule 6 of the Punjab Village Lands (Regulation) Act which reads as under:

"Rule 6. Subject to the provisions of Sub-rule (1) of Rule 4, all leases of land in shamilat deh shall be by auction, after making publicity in the manner laid down in Sub-rule (10). All documents executed in this connection shall be signed by a Sarpanch or in his absence by a panch performing the duties of the Sarpanch and two other Panches authorised for the purpose by the Gram Panchayat."

Learned counsel for respondent No. 3 on the other hand, has argued that the Gram Panchayat had been giving the land on lease to the lessees of the previous years on the basis of the highest bid and, therefore, there was nothing wrong in the adoption of the course by Respondent No.3 particularly when the same was neither objected to by the Law Officer of the Gram Panchayat nor by the Collector. It has further been argued that respondent No. 3 has deposited the entire amount on 20.9.1994 which was due upto the date of deposit and for the period upto 1995.

4. After giving our thoughtful consideration to the arguments of learned counsel for the parties, we are of the view that the order of the Collector cannot be legally sustained. Rule 6 envisages the grant of lease only by way of open auction in favour of the person who gives the highest bid the possession of a lessee after expiry of the lease period becomes unauthorised in view of the law laid down in Gram Panchayat of Village Bhagal v. Bachna 1987 P.L.J. 656. In view thereof neither the Law Officer nor the Collector could accede to the statement of "respondent No. 3 and, therefore, the order of the Assistant Collector deserves to be restored. Respondent No. 3 deserves to be evicted forthwith.

5. Adverting to the damages for the use and occupation of the land beyond 1991 upto 1995, we are of the view that ends of justice would be met if respondent No. 3 is directed to pay a sum of Rs. 750/- per acre annually. This much amount has been assessed by us keeping in view the averments of the respondent No. 3 regarding the grant of lease in the year 1995-96 in favour of another lessee at the rate of Rs. 1025/- per acre in one year for some other land excluding the

land in dispute. The amount which has been deposited by respondent No. 3 with the Panchayat Samiti is permitted to be withdrawn.

6. It is needless to observe that the auction proceedings would be conducted in accordance with law.