
(2000) 09 P&H CK 0201

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 12381 of 1999

Gram Panchayat, Dadhera

APPELLANT

Vs

State of Punjab and others

RESPONDENT

Date of Decision : 04-09-2000

Acts Referred:

Citation : (2001) 1 ICC 502 : (2001) 1 LJR 441 : (2001) 1 PLJ 43 : (2001) 2 PLR 219 : (2000) 4 RCR(Civil) 698

Hon'ble Judges : Jawahar Lal Gupta, J and K.S.Garewal, J

Advocate : Mr. M.C. Berry, DAG, Punjab., Mr. J.S. Toor, Advocate., Advocates for appearing Parties

Judgement

Jawahar Lal Gupta, J. (Oral)

1. We have a bunch of four petitions. Counsel for the parties have referred to the facts as averred Civil Writ Petition No. 12381 of 1999. The counsel are agreed that these facts represent the position in all the four cases.

2. The Gram Panchayat is the petitioner. It filed an application under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 for eviction of Smt. Shakuntla Devirespondent No. 3 from the land in her possession. Vide order dated December 10, 1998 the District Development and Panchayat Officer exercising the powers of the Collector accepted the application and ordered the eviction of the 3rd respondent. Aggrieved by the order, respondent No. 3 filed an application for stay of the order passed by the Collector, before the Commissioner, Patiala Division, Patiala. Respondent No. 2 the Commissioner, Patiala Division, Patiala, accepted this application vide order dated December 10, 1998. A copy of this order has been produced as Annexure P1. It reads as under :

"Presented today. Since the order has been passed only today by the D.D.P.O., Patiala, keeping in view the apprehension of the applicant, his dispossession is stayed in the meanwhile. Issue notice to the respondent and call for the record. To come up on 6.1.1999."

3. In pursuance to the order dated December 10, 1998 passed by the Collector under Section 7 of the Act, the petitioner made an attempt to take possession. The 2nd respondent foiled that effort by directing that the comments of the District Development and Panchayat Officer (exercising the powers of the Collector) be called for. In the meanwhile he ordered that "statusquo" shall be "maintained". A copy of the order dated March 17, 1999 passed by the Commissioner has been produced as Annexure P6.

4. The precise grievance of the petitioner is that the Commissioner, Patiala Division, Patiala, has no power under the provisions of the 1961 Act to either hear an appeal or to interfere with the order under Section 7 of the Act by the competent authority. Thus, the orders dated December 10, 1998 and March 17, 1999 are vitiated. On this basis, the petitioner prays that the impugned orders be quashed.

5. A written statement has been filed by the Commissioner, Patiala Division, Patiala.

6. The claim made on behalf of the petitioner has been controverted by Mr. Vijay Sharma, appearing for respondent No. 3. He contends that an order passed by the Collector can be challenged before the Commissioner. The Commissioner, Patiala Division, is fully competent to entertain a petition against the order passed by the Collector. Thus, the order passed by the authority in the present case is perfectly legal and valid.

7. The short issue is Did the Commissioner, Patiala Division, Patiala, have the jurisdiction to hear the petition against the order of the Collector ?

8. Admittedly, the petitioner had approached the Collector under Section 7 of the Act. An order passed by the competent authority under Section 7(1) can be challenged in appeal before the Commissioner. Section 2(1)(aa) defines the Commissioner to mean "the Commissioner of the Division and includes any other..." The statute clearly names the Commissioner of the Division as an authority competent to hear an appeal. Thus, we cannot hold that the impugned orders suffer from lack of jurisdiction.

9. Mr. Toor contends that the provision providing that the State Government can appoint a person other than the Commissioner to perform the functions creates a dichotomy. It would lead to many authorities being treated as Commissioner and would provide a choice to the aggrieved party to seek relief before a particular authority.

10. This issue may be raised in an appropriate case. So far as the present bunch of cases is concerned, the orders have been passed only by the Commissioner and not by any officer who may have been empowered to do so. Thus, the issue as now sought to be raised is wholly academic. It does not really arise in the facts and circumstances of these cases.

11. So far as the present bunch of cases is concerned, it is clear that the orders

have been passed by an authority authorised by the legislature and not by the State Government. Thus, the very basis of the contention is non-existent.

No other point has been raised.

In view of the above, we find no merit in any of these petitions. These are, consequently, dismissed.

No costs.

Petitions dismissed.