
(1995) 03 P&H CK 0106

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 1718 of 1981

Gujar Singh (Died) and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 22-03-1995

Acts Referred:

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

Citation : (1995) 110 PLR 671

Hon'ble Judges : T.H.B. Chalapathi, J

Bench : Single Bench

**Advocate : Vinay Mittal, Raman Mittal and Arvind Mittal, for the Appellant;
Manjit Singh, A.A.G., for the Respondent**

Final Decision : Allowed

Judgement

T.H.B. Chalapathi, J.—This writ petition is filed to quash the orders of the Collector Patiala dated January 9, 1980 which is attached to the petition as Annexure P.2 and the order of the Joint Director, Panchayats dated March 11, 1981 which is attached to the petition as Annexure P.3.

2. The Gram Panchayat of Mavi Sappan filed an application before the Collector u/s 7 of the Punjab Village Common Lands (Regulation) Act for the ejectment of the Petitioner Gujar Singh, alleging that the petitioner has illegally and forcibly occupied the land belonging to the Gram Panchayat and that the petitioner refused to deliver possession of the same instead of demands. According to the case of the petitioner, he filed a suit in the year 1968 for recovery of the possession of the land including the land in dispute from the Gram Panchayat and that suit was decreed by the Senior Sub Judge, Patiala on May 27, 1968 and therefore, his title has been established in a Court of law and therefore, the Gram Panchayat cannot claim the eviction of the petitioner from the land in question. The Collector in his order Annexure P.2, held that the property is owned by Gram Panchayat Mavi Sappan and it is in illegal possession of the respondent (the petitioner herein) and therefore ordered ejectment of the petitioners from

the said land. This order was confirmed by the Joint Director of Panchayats, Punjab according to whom the land in question vests in the Gram Panchayat and the petitioner has been in forcible possession of the same.

3. Learned counsel for the petitioners contended that the land which the Gram Panchayat is now claiming, was the subject matter of the civil suit filed by him in the year 1968 and that suit was decreed and that the decree passed by the Senior Sub Judge, Patiala has become final and is therefore, binding on the Gram Panchayat as the Gram Panchayat was also party to the suit. Annexure P. 1 is the decree passed on May 27, 1968 by the Senior Sub Judge, Patiala. It shows that there was a compromise between the petitioner and the Gram Panchayat and the suit was decreed in terms of the compromise and possession of the property was given to the petitioner. The learned counsel for the petitioner relied upon a decision of the Full Bench of this Court in Gram Panchayat Village, Bathoi Kalan, Patiala Vs. Jagar Ram and others, wherein section-13-B of the Punjab Village Common Lands (Regulation) Act was interpreted. u/s 13-B the provisions of the Act shall have effect notwithstanding anything to the contrary contained in law or in agreement, instrument, custom or usage decree or order of any Court or other authority. While dealing with Section 13-B of the Act, this Court observed as follows:-

"Though there was no such provision in the Act as applicable to the State of Punjab, but it is evident that the decree passed by the competent civil Courts between the parties could not be ignored by the authorities under the Act, prior to the amendment of the Act by Punjab Act No. 19 of 1976. However, it may be made clear that the parties will always be at liberty to get those decrees set aside on the grounds of collusion, fraud etc. or otherwise by a competent Court. Unless the said decree passed by the Civil Court, are held to be collusive or obtained by fraud, by a competent civil Court, the same could not be ignored by the authorities under the Act in view of the judgment rendered by the Division Bench in Baljinder Singh's case (supra), the correctness of which was not challenged before us."

4. Therefore, according to the Full Bench decision referred to above, the decree passed by the Civil Court cannot be ignored by the authorities concerned acting under the Act. Both the Collector and the Joint Director, Panchayats have not considered the effect of a decree granted by the Senior Sub Judge, Patiala in suit No. 48 of 1968, decided on May 27, 1968. There is no dispute that the said decree which is attached to the writ-petition as Annexure P.1, has become final. Under the said decree the possession of the property had been given to the petitioner. It is, therefore, not open to the Gram Panchayat to say that the petitioner has been in illegal and forcible possession of the property covered by the said decree. Therefore, the application filed by the Gram Panchayat, Mavi Sappan before the Collector u/s 7 of the Punjab Village Common Land Act is misconceived.

5. I therefore, allow the writ petition, quash the order of the Collector dated

January 9, 1980 (Annexure P.2) as confirmed by the Joint Director of Panchayats, (exercising the powers of the Commissioner) dated March 11, 1981 (Annexure P.3). The writ petition is accordingly allowed with no order as to costs.