

(2006) 02 P&H CK 0092
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 5835 of 2002

Harbhajan Singh @ Bhajan Singh	Vs	APPELLANT
State of Punjab and others		RESPONDENT

Date of Decision : 02-02-2006

Acts Referred:

Citation : (2006) 2 ILR (P&H) 35

Hon'ble Judges : J.S.Narang, J and Kiran Anand Lall, J

Advocate : Mr. Manohar Dadwal, Advocate.Mr. C.M. Munjal, Senior Additional Advocate General, Punjab, Mr. Manish Prabhakar, Advocate., Advocates for appearing Parties

Judgement

Kiran Anand Lall, J.

1. Claiming that the land in question is Jumla Mushtarka Malkan property and he is in its possession as one of the proprietors, the petitioner has asked for the issuance of a writ of certiorari for the quashing of orders, Annexures P8 and P10.
2. The Gram Panchayat, respondent No. 3 filed an application under Sections 4, 5 and 7 of the Public Premises (Eviction and Rent Recovery) Act, 1973 (to be referred as the Act) read with the provisions of Punjab Gram Panchayat (Common Purposes) Lands Act, 1976 for ejectment of the petitioner from the land in question on the ground that he is in unauthorised possession thereof. Respondent No. 2 accepted the claim of Gram Panchayat and ordered ejectment of the petitioner from the land vide Annexure P8. The petitioner filed appeal against that order but it was dismissed by respondent No. 1 vide Annexure P10.
3. In reply to the claim of the petitioner the stand of respondents is that he took the land on lease in the year 1965, for a period of two years and after expiry of lease period, vacated it. Later on, however, he entered into its possession, unauthorisedly, about 34 years prior to the filing of this petition. Therefore, according to them, he was rightly ordered to be ejected therefrom, on the application of respondent No. 3 filed under the Act.

4. Learned counsel for the parties have been heard and the records perused.

5. It is recorded in the proceedings book, translated copy Annexure R1, that the petitioner took the land on lease from the Gram Panchayat respondent No. 3, on 5.7.1965, in auction as he was the highest bidder. It is not the case of petitioner that after the expiry of two years" period he had again taken it on lease or had been paying its rent for the later period. Learned Senior Additional Advocate General contended that the petitioner had not only taken the land on lease from the Gram Panchayat but had even vacated it after the expiry of lease period. If he chose to take its unauthorised possession thereafter, he cannot be heard to state that he is in its possession as a proprietor or it is owned by Jumla Mushtarka Malkan.

6. As is mentioned in the written statement of respondents Nos. 1 and 2, after the petitioner was ordered to be ejected vide Annexures P8 and P10, he had filed a civil suit also, in respect of this land and the matter was decided against him and in favour of Gram Panchayat, by the Civil Court.

7. It is material to note that the stand taken by respondents Nos. 1 and 2 in para No. 7(e) of their written statement that the petitioner earlier left the land but again took its unauthorised possession three years back has not been controverted by him by filing any rejoinder thereto.

8. The impugned orders Annexures P8 and P10, thus, do not suffer from any illegality. Since the petitioner is in illegal possession of the land, he has been rightly ordered to be evicted therefrom

9. The petition shall accordingly, stand dismissed.