

(2005) 05 P&H CK 0064
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 3506 of 1985

Harcharan Singh (Died) through LRs. and another	APPELLANT
Vs	
Joint Director Panchayats, Punjab and others	RESPONDENT

Date of Decision : 11-05-2005

Acts Referred:

Citation : (2005) 3 LJR 377 : (2005) 3 PLR 388 : (2005) 3 RCR(Civil) 818

Hon'ble Judges : Jasbir Singh, J

Advocate : Mr. K.S. Grewal, Advocate.Mr. D.S. Bishnoi, Addl. A.G., Punjab, Mr. N.S. Rapri, Advocate., Advocates for appearing Parties

Judgement

Jasbir Singh, J. (Oral)

1. This petition under Articles 226/227 of the Constitution of India has been filed with a prayer that writ of Certiorari be issued to quash orders Annexures P/1 and P/2 dated 19th July, 1984 and 9th May, 1985 respectively.

2. In this writ petition, it has been stated that on one side of the house of Harcharan Singhpetitioner No. 1 a Thara (raised platform), has been constructed by forefather of the petitioners and is in existence for the last more than 70 years and, as such, they have become owners of the same. It has further been stated that respondent No. 3 in an illegal manner, filed an application under Sections 7 and 11 of the Village Common Lands Act, 1961 (for short 'the Act") stating that the land underneath the Thara be declared as Gram Panchayat's property, being part of the street and the petitioners be ordered to remove the same. It has further been averred in the writ petition that respondent Nos. 1 and 2 without applying their mind and also without looking into evidence have decided the application, referred to above, in favour of respondent No. 3. In this writ petition, it has been prayed that since property, in dispute, is under their ownership, as such, their ejectment could not have been ordered from the same.

3. Upon notice, respondent No. 3 put in appearance and filed written statement, denying all the averments made by the petitioners. It has been specifically stated

that the land underneath the Thara belongs to Gram Panchayat and in support of this contention site plan, Annexure R/1 has been placed on record. It has been prayed that the writ petition has no substance and, as such, it be dismissed.

4. Heard learned counsel for the parties. After hearing counsel for the parties, this Court feels that this writ petition deserves dismissal.

5. From record it appears that by passing order, Annexures P/1 and P/2, substantial justice has been done between the parties. It is apparent from the record that before passing order Annexure P/1, site in dispute was visited by Block Development Panchayat Officer, who informed that Thara was in existence. Keeping in view that fact, application was disposed of with a direction that Thara, in dispute, will remain in existence, however, petitioners were restrained from raising any further construction thereon. Harcharan Singh went in appeal and while deciding appeal, respondent No. 1 came to a conclusion that land in dispute/Thara is a part of street and the petitioners were directed to remove the same immediately. Hence this Civil Writ Petition.

6. It is apparent from the siteplan, authenticity of which has not been controverted by the petitioners, during arguments, that apparently Thara shown as ABCD in the site plan is part of the street. It has come on record that the ancestral house was partitioned amongst petitioner Harcharan Singh and his brothers and his share, as is apparent from site plan, comes to 16" and 6" "area in width, which touches other side of the site plan and now marked as 'E', during arguments.

7. This Court feels and as is apparent from the site plan also that existence of Thara was a hindrance in the street. Alignment of the street beyond Thara clearly indicates that the same was constructed in the street. By passing orders under challenge, this Court feels, a substantial justice has been done to the parties by respondent Nos. 1 and 2. Merely because application has been entertained at the instance of an individual, orders, which on the face of it are just and proper, cannot be set aside. In *Sardar Amarjit Singh Kalra (dead) by L.Rs. and others v. Parmod Gupta (Smt.) (dead) by L.Rs. and others*, (2003)3 S.C.C. 272, Hon'ble Supreme Court has observed that laws of procedure are meant to regulate effectively, assist and aid the object of doing substantial and real justice and not to foreclose even an adjudication on merits of substantial rights of citizen under personal, property and other laws.

This Court feels that while ordering ejectment of the petitioners from ABCD shown in site plan, Annexure R/1, the respondent Nos. 1 and 2 have not committed any illegality. Dismissed.