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(2005) 07 P&H CK 0101

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 1016 of 1985

Hazara Singh and Others — APPELLANT

Vs

Joint Director, Panchayat (Exercising The Powers of Commissioner) and Others — RESPONDENT

Date of Decision : 13-07-2005

Acts Referred:
Constitution of India, 1950 — Article 226, 227
Punjab Village Common Lands (Regulation) Act, 1961 — Section 11

Citation : (2005) 141 PLR 375

Hon'ble Judges : Jasbir Singh, J

Bench : Single Bench

Advocate : I.K. Mehta and Ranjit Mehta and D.K. Dogra, for the Appellant; Yogesh Goyal and B.M. Lal, for the Respondent

Judgement

Jasbir Singh, J.—The petitioners have filed this writ petition under Article 226/227 of the Constitution of India with a prayer to issue a writ in the nature of Certiorari to quash order Annexure P/5 dated 12th June, 1984 and order Annexure P/3 dated 18th November, 1981 passed by the respondents No. 1 and 2 respectively.

2. It is apparent from the record that the Gram Panchayat, filed a suit for permanent injunction with a prayer that the petitioners and respondent No. 4 be restrained from interfering in land in dispute situated within abadi deh of village, description of which was given in heading of the plaint. Civil Court, vide order dated 12th November, 1981, opined that besides dispute regarding injunction, it has become necessary to look into the ownership of the property also and it was held that the Civil Court has no jurisdiction to decide title in the shamlat land. The plaint was ordered to be. presented before the Collector, Rupnagar for decision on the question of title. Records further reveal that the Collector-respondent No.2 took up the matter and vide order Annexure P/3, decided the question of ownership in favour of the Gram Panchayat and further directed that the petitioners be ejected from the land in dispute. Appeal filed by the petitioners

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was dismissed, vide order Annexure P/5. Hence this writ petition.

3. At the time when notice of motion was issued, the petitioners confined their claim only with respect to an area measuring 81'' x 125''. It is apparent from the record that the Collector while deciding, the disputes between the parties, has failed to give any finding whether the area, in dispute, falls within the definition of ''shamlat deh land'' or not. it has only been stated that the area in dispute is part of two acres of land, which has been transferred by the Gram Panchayat in favour of the Health Department and as such falls within the definition of shamlat deh and accordingly ejectment of the petitioners was ordered. Records reveal that the order passed by the Collector is totally non-speaking. No dimension of the land measuring 2 acres has been given; since when the said land was being utilized by the villagers for common purposes and whether the property, in dispute, is part and parcel of those two acres of land and as what is the evidence to that extent. It has been argued on behalf of the petitioners that no evidence was recorded by the Collector and this fact has been controverted by the counsel for the respondent No. 4. Respondent No. 1 has also not given any reasoning as to how the area in dispute falls within the definition of shamlat deh.

4. Faced with the above situation, counsel for the respondent No. 4 has very fairly conceded that let the matter be remanded to the Collector for decision afresh on merit. None has put in appearance on behalf of the Gram Panchayat.

5. This Court feels that orders passed by both the Collector as well as Joint Director, Panchayat are non-speaking. Such quasi judicial authorities are required to give reasons in support of their conclusion. No evidence was recorded and the matter was decided merely on the basis of surmises and conjectures, without making any foundation for the order passed.

6. Accordingly, both the orders, under challenge are quashed. The matter is remanded to the Collector, Rupnagar, with direction to decide this dispute by treating it as an application u/s 11 of the Punjab Village Common Lands (Regulation) Act, 1961. Since the petitioners at the time of issuance of notice of motion has confined their claim with respect to the area of 81'' x 125'', Collector is to give finding with regard to that area only.

Parties are directed to appear before the Collector, Rupnagar on 29.8.05. No order as to costs.

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