
(2009) 03 P&H CK 0264
In the Punjab And Haryana At Chandigarh

Jarnail Singh and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 25-03-2009

Acts Referred:

Citation : (2009) 03 P&H CK 0264

Hon'ble Judges : Ranjit Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ranjit Singh, J.—Land measuring 758 kanals-15 marlas in Khata No. 512/1350 allegedly owned by the proprietors in village Khanauri Kalan was recorded as Shamlat Deh Hasab Paimana Baach Munderja Shijra Nasab". The possession was that of Makbuja Malkan. In 1956, mutation entry No. 269 was made in favour of the Panchayat. It is claimed that nothing changed at the ground level and the Khewatdars did not come to know of this change. Subsequent development has also been mentioned in the writ petition to the effect that this village grew into a Mandi in the year 1986. Gram Panchayat of the village was converted to Notified Area Committee and the initial entry of mutation was converted to another entry of mutation No. 3514 in favour of Notified Area Committee. From the year 1997 to 2001, Notified Area Committee started divesting the owners of their possession and also leased out this land to the outsiders. In the year 2002, a civil suit was filed for declaration qua the ownership and for declaring the illegal mutation as void against respondent Nos. 3 and 4. In 2002 only, respondent No. 3 initiated proceedings under the Public Premises Act for eviction of respondent Nos.5 and 6 from the land illegally occupied by them. On 8.3.2006, Collector, Munak, District Sangrur ordered respondent Nos.5 and 6 to vacate the land in dispute within 30 days. On 3.7.2006, Resolution Nos.46 and 47 were passed by respondent No. 3 on a representation of respondent Nos.5 and 6 to sell the land to them. On 14.8.2006, an order was passed fixing the rate of land at Rs. 50,000/- per acre and Rs. 1,00,000/- per acre for sale to respondent Nos.5 and

6. It is claimed that the prevailing market rate at that time was Rs. 15,00,000/- Per acre. It is urged that this proposal for selling the land to respondent Nos.5 and 6 is illegal and in contravention of directions issued by Division Bench of this Court in Civil Writ Petition No. 4511 of 2001, the present writ petition was filed seeking setting-aside of the resolutions, which had been passed and were stated to be contrary to the interests of the Society.

2. Counsel for the petitioners would contend that an entry which was made in the year 1956 mutating this land in favour of Panchayat, was done by the Panchayat Officer, who was not competent to change the entry in this manner. The counsel would further contend that the petitioners came to know of this entry when the Nagar Panchayat started divesting owners of the property. He accordingly claims to have filed an application seeking the details of the entry on 2.11.2006. The submission is that this void entry made which led to subsequent development, would be nonest and as such all subsequent action taken, including the sale of land to respondent Nos. 5 and 6, would be void ab initio and so should not be given effect to.

3. Notice of motion was issued. Reply is filed. In the reply filed by Notified Area Committee, it is pointed out that even before filing of this writ petition, the sale deed in favour of respondent Nos. 5 and 6 have been executed. So is the stand of respondent Nos. 5 and 6 before this Court. It was put to the counsel for the petitioners that there is no challenge to the sale deed in the present writ petition. The counsel for the petitioners in turn pointed out to an interim order passed by this Court staying the operation of the resolutions, Annexures P-7, P-8 and P-9, to contend that the sale deeds executed in violation of the stay order would be invalid and even if done, would be regulated by the doctrine of lis pendens.

4. Counsel for the respondents, however, would point out that this order was passed on 9.1.2007, whereas two sale deeds in favour of respondent Nos. 5 and 6 are dated 29.12.2006 and 3.1.2007. Obviously, the order passed on 9.1.2007 would not have any effect on the sale deeds, which were executed prior to the date of the order.

5. Even otherwise, I find that an entry which was made in the year 1956 is sought to be put under challenge obliquely by filing this writ petition in the year 2007. The entry which was made in the year 1956 has separately been challenged by filing a civil suit. The present writ petition apparently suffer from inordinate delay and so may suffer from delay and laches. Concededly, the Notified Area Committee started divesting the owners of their possession from the year 1997 to 2001. Still, the writ petition was filed in the year 2007 only. During the period which has been taken by the petitioners to challenge the resolutions etc., the rights of respondent Nos. 5 and 6 have crystalised. The sale deeds have been executed in their favour. There is no challenge to sale deeds either in the writ petition or separately before any other forum. In this background, no effective order can be made in the present writ petition. The same is accordingly dismissed.