
(2016) 05 P&H CK 0186
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 9512 of 2016

Joginder Singh

APPELLANT

Vs

State of Haryana and others

RESPONDENT

Date of Decision : 16-05-2016

Acts Referred:

Constitution of India, 1950 — Article 226
Punjab Village Common Lands (Regulation) Act, 1961 — Section 7

Citation : (2016) 3 LAR 209

Hon'ble Judges : Mr. Surya Kant and Mr. A.B. Chaudhari, JJ.

Bench : Division Bench

Advocate : Shri S.S. Kharb, Advocate, for the Appellant;

Final Decision : Disposed Off

Judgement

Surya Kant, J. (Oral) - Petitioner is a resident of village Sarsad, Tehsil Gohana, District Sonapat. He alleges that though the eviction order passed way back on 27th March, 2001 against private respondents No.8 to 80 under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961, as applicable to the State of Haryana, has attained finality but the said order has been put under the carpet not only by the Gram Panchayat but by the District Administration also.

2. It is alleged that the private respondents continue to cultivate the land unauthorisedly thereby causing loss of lacs of rupees per year to the Gram Panchayat. It is further alleged that those who raise their voice against misuse of the Gram Panchayat land have been silenced through criminal acts, including the murder of two residents of the village. The petitioner, thus, seeks a direction to the District Administration and the Gram Panchayat to give effect to the above stated eviction order.

3. Notice of motion to respondents No.1 to 6. Ms. Kirti Singh, Deputy Advocate General, Haryana accepts notice on their behalf.

4. Having heard learned Counsel for the parties, we do not deem it necessary to

call upon the private respondents as we are not determining any factual issue with respect to the allegations made by the petitioner. Suffice it to observe that if the eviction order has attained finality and there is no other legal impediment, it becomes imperative upon the Gram Panchayat and the Deputy Commissioner or authorities of the Department of Panchayats, to ensure that the public property like shamlat deh land is not misutilized and is restored for common purposes only, including for generating income of the Gram Panchayat. If the Sarpanch is found to be colluding with the encroachers, the authorities must know their powers or the action which they are competent to take under the Act against an erring Sarpanch. At the same time, such a recourse cannot be taken mechanically without ascertaining the correct facts.

5. We, thus, dispose of this writ petition with a direction to the Deputy Commissioner, Sonapat to constitute a team of officers not below the rank of DDPO/SDM to hold a fact finding inquiry and submit the report to him within two months. If the Deputy Commissioner finds that the Gram Panchayat land is still occupied by unauthorized encroachers against whom eviction order has attained finality, he shall ensure time bound action and to restore the land to the Gram Panchayat with police help, if need be.

6. The needful shall be done within three months after the fact finding inquiry is held.