
(2013) 07 P&H CK 0576
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 5837 of 2006

Krishan Chand and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 29-07-2013

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 — Section 5, 7

Citation : (2013) 07 P&H CK 0576

Hon'ble Judges : L.N. Mittal, J

Bench : Single Bench

Advocate : R.S. Chauhan, for the Appellant; Puneet Kaur Sekhon, Additional Advocate General, Punjab for Respondent Nos. 1 to 3 and Mr. Vikas Behl, Advocate, for the Respondent

Judgement

L.N. Mittal, J.—In this civil writ petition filed under Articles 226 and 227 of the Constitution of India, petitioners, who are legal heirs of Vidya Wati, have assailed order dated 30.08.2005 Annexure P-9 passed by respondent no. 2-Deputy Commissioner exercising the power of Commissioner. Respondent no. 3-Managing Officer-cum-Tehsildar (Sales) filed petition under Sections 5 and 7 of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 before Sub-Divisional Magistrate-cum-Collector for eviction of respondent no. 4-Piara Singh alleging that he was in unauthorized possession of 4.92 marlas land which was evacuee property and, therefore, became property of State of Punjab in view of package deal. The Collector dismissed the said petition vide order dated 31.03.2005 Annexure P-8. However, in appeal, respondent no. 2 has held the property to be evacuee property and therefore, property of State of Punjab being package deal property. Petitioners have, therefore, filed this writ petition to challenge the said finding of respondent no. 2.

2. I have heard learned counsel for the parties and perused the case file.

3. Civil suit filed by Vidya Wati predecessor-in-interest of the petitioners against respondent no. 4-Piara Singh for possession of 4 marlas land was decreed by the Civil Court vide judgment and decree dated 27.01.1990 Annexures P-1 and P-2 and upheld in first appeal by first Appellate Court vide judgment and decree dated 04.02.1992 Annexures P-3 and P-4. Vidya Wati filed execution petition for execution of the said decree. In execution proceedings, State of Punjab-respondent no. 1 as well as Piara Singh-respondent no. 4-judgment debtor filed objections alleging that the suit property measuring 4 marlas was evacuee property and therefore, it had become property of State of Punjab being package deal property. The said objections were dismissed by the executing Court vide order dated 05.03.2003 Annexure P-7 holding the suit property to be not evacuee property. The said finding has attained finality qua State of Punjab as it did not prefer any appeal against order Annexure P-7 passed by the executing Court. Consequently, the eviction petition filed by respondent no. 3 was rightly dismissed by the Collector vide order dated 31.03.2005 Annexure P-8. In view thereof, order Annexure P-9 passed by respondent no. 2 holding the suit land to be evacuee property is patently illegal and cannot be sustained. Before parting with the order, it may be noticed that respondent no. 4-judgment debtor had preferred appeal against order Annexure P-7 passed by the executing Court. The said appeal was allowed by lower appellate Court vide judgment dated 03.03.2006 Annexure R-4/1. However, CR No. 1573 of 2006 titled Kishan Chand & others versus Piara Singh and another preferred by the petitioners herein against said judgment Annexure R-4/1 has been allowed by this Court vide order of even date. In view thereof also, the instant writ petition deserves to be allowed. Resultantly, the instant writ petition is allowed and impugned order Annexure P-9 passed by respondent no. 2 is quashed, thereby restoring order Annexure P-8 passed by the Collector.