

(1995) 08 P&H CK 0004

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 12113 of 1993 (O and M) and Civil Miscellaneous No. 4620 of 1995

Lohna Singh and Others

APPELLANT

Vs

The State of Haryana and Others

RESPONDENT

Date of Decision : 09-08-1995

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 9
Constitution of India, 1950 — Article 226
Punjab Land Revenue Act, 1887 — Section 45

Citation : (1995) 111 PLR 504

Hon'ble Judges : V.K. Jhanji, J

Bench : Single Bench

Advocate : Y.P. Malik, for the Appellant; J.K. Sibal and Arun Bakshi and R.C. Setia, Addl. A.G. and Sanjiv Manrai, AAG for Respondent Nos. 1, 3 and 4, for the Respondent

Final Decision : Dismissed

Judgement

V.K. Jhanji, J.—In this petition, challenge is to the mutation attested in favour of the Municipal Committee and entries made in the Jamabandi pursuant to sanctioning of the mutation.

2. It has been averred that village Bhapura Hadbast No. 70 is situated close to the vicinity of Samalkha Town, now in Panipat town. The State of Haryana vide notification dated 20.8.1981 published in official Gazette on 1.9.1981 issued u/s 2-A(2) read with Section 3 of the Haryana Municipal Act, included a part of village land, Bhapura in the local area of municipal limits of village Samalkha, but the land which is Shamlat of the village was not included and till date has remained outside the limits of Municipal Committee. It has further been averred that though the land as mentioned in para 3 of the writ petition was not included in the municipal limits but the Revenue Authorities wrongly and illegally got the mutation sanctioned of this land in favour of the Municipal Committee and later, entries have come to be incorporated in the Jamabandi for the year 1991-92.

Petitioners have alleged that mutation and the entries in the Jamabandi are illegal, wrong and without jurisdiction and on the basis of which the possession of the petitioners cannot be interfered with.

3. In response to notice of writ petition, Municipal Committee (respondent No. 2) in its written statement has not only questioned the locus-standi of the petitioners to file the writ petition but has also stated that neither the petitioners are in possession nor they have any claim, title or interest in the land as the same is the property of Municipal Committee, Samalkha. Respondent No. 2 has further averred that the Committee has already made many provisions for the development of the area and has spent huge amount for roads, low cost flush latrines, water supply, drainage etc. It has further been averred that mutation and the Jamabandi can be challenged only in the Revenue Courts.

4. After hearing learned counsel, I am of the view that the question raised in the writ petition is a disputed question of fact. Whether the land belongs to the Panchayat or the same is being used for common purposes by the proprietors of the village or whether a part of it or whole of it was included in the notification, are such questions which can be decided only under the provisions of Punjab Land Revenue Act. It is provided u/s 45 of the Punjab Land Revenue Act that any person considering himself aggrieved as to any right of which he is in possession by an entry in a record rights can file a suit for declaration in Civil Court only under the provisions of Specific Relief Act. If the petitioners are aggrieved of the decision of the Revenue Authorities in sanctioning the mutation or incorporating of entries in the Jamabandi, the alternative remedy available to them is to institute a suit in Civil Court.

5. Accordingly, this writ petition shall stand dismissed. No costs.