
(2011) 09 P&H CK 0216
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 18085 of 2011

Mahinder Singh and others	Vs	APPELLANT
State of Punjab and others		RESPONDENT

Date of Decision : 26-09-2011

Acts Referred:

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

Citation : (2012) 1 RCR(Civil) 629

Hon'ble Judges : Alok Singh, J

Bench : Single Bench

Advocate : Parveen Kumar Garg, for the Appellant;

Final Decision : Dismissed

Judgement

Alok Singh, J.—Present petition is filed invoking writ jurisdiction of this Court under Article 226 of the Constitution of India challenging the order dated 1.11.2010 (Annexure P-8) as well as order dated 11.7.2011 (Annexure P-10) whereby complaint of the petitioners for removing respondent No. 4, Panch, on the ground that he is in unauthorized possession of the Panchayat land was dismissed. Perusal of order dated 1.11.2010 (Annexure P-8) passed by Director, Rural Development and Panchayat, Punjab, would reveal that on 18.4.2009 Field Kanungo conducted fresh demarcation in the presence of Ilaqa Patwari, in which respondent No. 4 is not found in unauthorized possession of any Gram Panchayat land. Order dated 11.7.2011 (Annexure P-10) passed by Financial Commissioner would show that on khasra No. 644, in the fresh demarcation, respondent No. 4 was not found in possession and some other inhabitants were found in possession and eviction order from khasra No. 644 was passed against other inhabitants.

2. On being asked, who are the other persons against whom eviction order has been passed from khasra No. 644, learned counsel for the petitioners has stated that to his knowledge no eviction order has been passed, however, eviction

proceedings are pending against Sant Singh, Pritam Singh and Mehar Singh all sons of Gainda Singh. Learned counsel for the petitioners, while taking me to Annexure P-11, has argued that Sant Singh, one of the unauthorized occupants, against whom eviction proceeding is pending to remove encroachment from khasra No. 644, has given affidavit stating that along with them, respondent No. 4 is also in illegal possession of the Gram Panchayat land i.e. khasra No. 644.

3. On being asked, as to whether Sant Singh, Pritam Singh and Mehar Singh have taken the plea before the Authority hearing the eviction proceedings that Rashpal Singh, respondent No. 4, is in possession along with them, learned counsel for the petitioners is unable to give any reply.

4. Forum of this Court under Article 226 of the Constitution of India should not be allowed to be misused to settle the political scores. Ordinarily no person shall be said to be in unauthorized occupation of the Panchayat land unless and until he is found to be in unauthorized possession by the competent Authority in a proceeding either u/s 7 of the Punjab Village Common Lands (Regulation) Act, 1961 or in any other judicial proceeding merely on the basis of administrative report. Moreover, as per statement of learned counsel for the petitioners, it seems that eviction proceeding is pending only against Sant Singh, Pritam Singh and Mehar Singh, and respondent No. 4 is not party to the eviction proceeding. Present case seems to be abuse of the process of law, therefore, to deter such type of petitioners not to waste the precious time of the Court, exemplary cost must be imposed.

5. Present petition is dismissed with exemplary cost of Rs. 2,00,000/- to be paid to the Legal Aid Committee of this Court within 15 days from today. In case petitioners fail to deposit the cost within 15 days, same may be recovered from the petitioners by coercive methods. Copy of this order be forwarded to the Legal Aid Committee of this Court for compliance.