
(2004) 04 P&H CK 0035
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 4670 of 1983

Makhan Lal

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 07-04-2004

Acts Referred:

Punjab Village Common Lands (Regulation) Act, 1961 — Section 7
Punjab Village Common Lands (Regulation) Rules, 1964 — Rule 19

Citation : (2004) 138 PLR 726 : (2004) 3 RCR(Civil) 716

Hon'ble Judges : Satish Kumar Mittal, J

Bench : Single Bench

Advocate : Deepti Kamal, for the Appellant; Sunil K. Vashisth, A.G.G., for the Respondent

Final Decision : Dismissed

Judgement

Satish Kumar Mittal, J.—The petitioner Makhan Lal has filed this petition under Articles 226/227 of the Constitution of India impugning the order dated 28.1.1982 (Annexure P-3) passed by the Assistant Collector 1st Grade, Dabwali, order dated 13.6.1983 (Annexure P-5) passed by the Collector, Sirsa and the order dated 19.7.1983 (Annexure P-7) passed by the Commissioner, Hisar Division, Hisar.

2. In the instant case, the respondent-Gram Panchayat, Lambi filed an application u/s 7 of the Punjab Village Common Lands (Regulation) Act, 1961, for eviction of the petitioner from the land measuring 32 Kanals situated in village Lambi by alleging that the Gram Panchayat was the owner of the aforesaid land and the petitioner was in illegal and unauthorised possession of the same.

3. The petitioner contested the aforesaid application by alleging that the Gram Panchayat was not the owner of the land and actually the disputed land was owned by Mustarka Malkan. It was pleaded that he was owner in possession of the disputed land. However, in the reply, which has been annexed with this petition, it has not been disclosed how the petitioner was the owner in

possession of the land.

4. The Assistant Collector 1st Grade, after considering the evidence led by both the parties, allowed the application of the respondent-Gram Panchayat and ordered the eviction of the petitioner vide its order dated 28.1.1982 while holding as under:-

"I have heard the arguments of the learned counsel for the parties and have also examined the file carefully. Shri D.L. Singla, Legal Attorney, Sirsa on behalf of Gram Panchayat brought to my notice the statement of PW2 and contended that suit land is owned by Gram Panchayat and Gram Panchayat is letting out the suit land on lease for the last so many years. In support of which he referred to the receipts of the lease agreements also. But the respondent is in wrongful occupation of the land for the last 3 years on account of which the Gram Panchayat has not been able to let out the suit land on lease during this period. Accordingly, the respondent be evicted from the land in dispute and be also burdened with fine for unauthorised use of the land. Contrary to this the counsel for the respondent laid much stress upon this with (sic) the suit land is not owned by Gram Panchayat and, therefore, this application of Gram Panchayat be dismissed. After the above discussion, I have reached on the conclusion that the Gram Panchayat is owner of the land as is apparent from the copies of lease-deed as well as the land tax receipts etc. since the suit land is being let out by the Gram Panchayat and is also paying the land tax in lieu thereof. Accordingly, I order for eviction of the respondent from the land in dispute and further burden him with a sum of Rs. 3200/- on account of his wrongful possession which amount the respondent shall pay to the Gram Panchayat."

5. Against the aforesaid order the appeal was filed by the petitioner and the same was also dismissed by the Collector, Sirsa vide his order dated 13.6.1983. It has been held by the Collector that the Gram Panchayat is the owner of the land in dispute and as per the Panchayat record, the land in dispute was being leased out by the Gram Panchayat since 1962-63 to various persons. The petitioner himself took the land in dispute on lease from Gram Panchayat, therefore, it was found that after the expiry of the period of lease the possession of the petitioner on the land in dispute was unauthorised. Hence, the order of eviction was passed against the petitioner. Against the order of Col- lector, the petitioner filed a revision which was also dismissed.

6. After hearing the learned counsel the petitioner and perusing the record of this case as well as the impugned orders, I do not find any illegality or infirmity in the finding of fact recorded by the authorities under the Act. In support of his claim, the petitioner examined only himself and one witness. Nothing was brought by him on record to show he was the owner of the disputed land. On the other and, the Gram Panchayat produced on record documentary evidence which clearly establishes the ownership of the Gram Panchayat. It has also been found that the petitioner himself was taking the land in dispute on lease from the Gram Panchayat. Once the petitioner himself took the land on lease from the Gram

Panchayat, then he cannot question the title of his landlord in view of Rule 19 of the Punjab Village Common Lands (Regulation) Rules, 1964 and the law laid down by this Court in Jarnail Singh and Ors. v. Joint Director, Panchayats and Ors. (1999)122 P.L.R. 36 and Mam Been v. State of Haryana and Ors (2001) 127 P.L.R. 563.

In view of the aforesaid, there is no merit in this petition and the same is hereby dismissed.