
(2004) 05 P&H CK 0065
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 7790 of 2002

Naranjan Singh and others	Vs	APPELLANT
State of Haryana and others		RESPONDENT

Date of Decision : 12-05-2004

Acts Referred:

Citation : (2004) 3 LJR 113 : (2004) 3 RCR(Civil) 567

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

Advocate : Mr. Mahavir Sandhu, Advocate.Mr. Ragbir Chaudhary, Sr. D.A.G.,
Haryana, Mr. J.S. Cooner, Advocate., Advocates for appearing Parties

Judgement

V.K. Bali, J. (Oral)

1. Naranjan Singh and two others, through present petition filed by them under Article 226 of the Constitution of India, seek issuance of writ in the nature of certiorari so as to quash orders dated 28.11.2000, 1.8.2000 and 10.5.2000 passed by respondents 2 to 4, respectively, in the proceedings initiated by them under Section 13A of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as 'the Act'). Whereas, regular suit filed by the petitioners under Section 13A of the Act seeking ownership of the property in dispute was dismissed vide order dated 10.5.2000 passed by the Collector, appeal and revision filed against the said order came to be dismissed by learned Commissioner and Financial Commissioner vide orders dated 1.8.2000 and 28.11.2000, respectively. The orders, that have been impugned in the present petition, would manifest that the petitioners failed in their endeavour to get the land declared as belonging to them primarily for the reason that they were unable to produce any evidence on record to show that they are owners. Surely, the petitioners, before the Courts below, for declaration to the effect, as mentioned above, had to bring admissible evidence on record to show that they are the owners and if, therefore, no evidence was produced by them, their regular suit had to be dismissed.

2. In response to the notice that was issued by this Court, reply on behalf of

respondents 1 and 4 has been filed wherein, it has, inter alia, been pleaded that the petition is hopelessly time barred as mutation was sanctioned in favour of the Gram Panchayat way back in the year 1955. The mutation was sanctioned as per Shamlat Law of 1952 and the land in question vests in the Gram Panchayat as per the provisions of Section 2(g) of the Act. It is then pleaded that the land was auctioned in the year 1996/97 to different lessees and the petitioners were also the bidders and they had marked their presence in the register of lease and had raised no objection regarding the title of the land in question.

3. Mr. Mahavir Sandhu, learned counsel representing the petitioners, however, vehemently contends that only three opportunities were given to the petitioners to lead their evidence, i.e., 25.4.2000, 27.4.2000 and 10.5.2000 and the arguments were heard on 10.5.2000 itself, on which date, the case was decided against them. He states that on the first occasion, a date of only two days was given whereas, on the second occasion, the matter was adjourned to only for 1314 days. This was wholly inadequate opportunity granted to the petitioners to prove their case and, therefore, the impugned orders should be set aside and the case remitted to learned trial court with liberty to the petitioners to lead evidence by giving them adequate opportunity.

4. I have heard learned counsel representing the parties and with their assistance, examined the records of the case. In the context of limited controversy involved in this case, I find no merit whatsoever in the only contention raised on behalf of the petitioners, as noted above. The case of the kind dealt with by the concerned authorities had primarily to be determined on the basis of documentary evidence. Such documentary evidence is readily available from the revenue Patwari as the same is only in the shape of Khasra Girdwaris, Jamabandis and Mutations. Insofar as, suit under Section 13A of the Act is concerned, same came to be filed by the petitioners on 27.10.1999. The petitioners ought to have, at least, produced on record documentary evidence in their endeavour to show that they were owners of the property in dispute and the mutation sanctioned in favour of the Gram Panchayat way back in 1955 was incorrect or legally unsustainable. No effort in this regard appears to have been made by the petitioners not only during the course of trial before the Collector but also before learned Commissioner and Financial Commissioner. Despite all this, the Court might have considered the desirability of remanding this case, giving opportunity to the petitioners to lead their evidence, if perhaps, the documents, that have been placed on the records of present petition even now, might have even, prima facie, shown that they were owners of the property in dispute.

5. Mr. Mahavir Sandhu, learned counsel representing the petitioners, has been asked by the Court to read the concerned documents produced on record with the present petition that may show that the petitioners are the owners. Learned counsel has referred to Jamabandi for the year 1963/64, Annexure P4. Even though, it may be true that the land in dispute, as shown in the application filed

under Section 13A of the Act, tallies with the land mentioned in Jamabandi, Annexure P4, the same, however, completely turns against the petitioners inasmuch as, in the column of ownership, what has been recorded is that the land belongs to Panchayat Deh. It has not been recorded as Jumla Mustarka Malkan, which alone would, at least, prima facie, show that the same belongs to the proprietors of the village, the land being Bachat or Surplus land. Mr. Sandhu, learned counsel representing the petitioners then refers to Mutation, Annexure P3, in his effort to show that the land, erstwhile vested with the proprietors with an entry Shamlat Badstoor Deh Hasab Hissa Halsari Dar, was wrongly mutated in favour of the Gram Panchayat. Mutation, Annexure P3, also would not advance the case of the petitioners as there is no mention of the land in dispute. In fact, mutation, Annexure P3, deals with the land measuring 444 kanals 17 marlas and there is no Khasra number in the said mutation. Contention of Mr. Sandhu, learned counsel for the petitioners, could have been examined, if perhaps, while giving details of the land measuring 44 kanals 17 marlas, the land, subject matter of dispute, which is only 27 kanals 7 marlas, might have also found mention therein but that is not so.

6. In view of the fact that whatever best evidence the petitioners might have in the shape of documentary evidence, has been produced on record of the present petition and which does not advance their case, it shall be an exercise in futility to set aside the impugned orders and remand the case to the Collector to decide the matter afresh after giving opportunity to the petitioners to lead evidence.

7. Finding no merits in this petition, I dismiss the same leaving, however, the parties to bear their own costs.