
(2013) 07 P&H CK 0308
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 15965 of 2013

Paramjit Singh

APPELLANT

Vs

Director, Rural Development and Panchayats and Others

RESPONDENT

Date of Decision : 26-07-2013

Acts Referred:

Income Tax Act, 1961 — Section 11, 7

Citation : (2013) 07 P&H CK 0308

Hon'ble Judges : Jasbir Singh, J;G.S. Sandhawalia, J

Bench : Division Bench

Advocate : J.S. Bhandohal, for the Appellant;

Final Decision : Dismissed

Judgement

Jasbir Singh, J.—By filing this writ petition, the petitioner has laid challenge to an order dated 26.4.2011 (P2), vide which he was ordered to be ejected from the land in dispute, stated to be owned by the Gram Panchayat. Further challenge has been laid to an order dated 2.3.2012 (P1), dismissing appeal filed by the petitioner. Petitioner's claim that he was owner of the land in dispute, was rejected, by noting that the land was given to him for cultivation for a specified period as per the provisions of the East Punjab Utilization of Land Act, 1949. After expiry of that period, when he failed to vacate the land, his ejectment was sought, which was allowed vide the impugned orders.

2. It is evident from the record that vide order dated 2.3.2012, four similar appeals were dismissed by the appellate authority. One similarly situated claimant came to this Court by filing CWP No. 2377 of 2013 titled as Manohar Lal and another v. Director, Rural Development and Panchayats, Punjab and another, which was dismissed on 11.3.2013. With regard to controversy involved in that case, it was observed as under:-

Admittedly, the land, in dispute, is recorded as "Shamilat Deh ". The land, in dispute, was leased out to the petitioners for a period of ten years, under the

1949 Act. The said act empowered the District Collector to lease out fallow land for cultivation. After expiry of the lease period, the petitioners did not vacate the land. The Gram Panchayat filed a petition u/s 7 of the 1961 Act for eviction of the petitioners. The petition was allowed and the appeal filed by the petitioners was also dismissed. The petitioners, thereafter, filed a petition u/s 11 of the 1961 Act, for a declaration that the land does not vest in the Gram Panchayat. The Collector has dismissed the petition. The appeal filed by the petitioners has also been dismissed.

The petitioners' plea that the land, in dispute, was the share of muslims migrants in "Shamilat Deh", is evacuee property and, therefore, does not vest in the Gram Panchayat, remains unsubstantiated for want of any evidence, to prove that the land was ever declared as evacuee property or was allotted to the petitioners by the Rehabilitation Department. The petitioners have not produced any order or letter allotting the land, in dispute, to the petitioners on a quasi permanent basis.

The petitioners' argument that their allotment is saved by Section 2(g)(ii-a) of the 1961 Act, is factually and legally incorrect. A large number of villages, in the State of Punjab, were inhabited by muslims. Upon their migration to Pakistan, during partition of the country, their share in "Shamilat Deh" was treated as evacuee property and allotted to displaced persons to satisfy verified claims and to other persons under the Displaced Persons (Compensation and Rehabilitation) Act, 1954 etc. A dispute, between a Gram Panchayat and an allottee of share of muslim migrants in "Shamilat Deh" came up for consideration before the Hon'ble Supreme Court in Gram Panchayat of Village Jamalpur Vs. Malwinder Singh and Others, . The Hon'ble Supreme Court held that the share of muslim migrants in "Shamilat Deh" vests in a Gram Panchayat and shall not be available to the Rehabilitation authorities or to the State for allotment. Section 2(g)(ii-a) of the 1961 Act was enacted to protect the large number of allotments already made to satisfy verified claims of persons, who had migrated from Pakistan.

Section 2(g)(ii-a) of the 1961 Act, however, does not apply to the present case as the petitioners have not been able to prove that the land, in dispute, was ever declared or treated as evacuee property and was allotted to them by the Rehabilitation Department. The land, in dispute, was, admittedly, leased out to the petitioners for a period of 10 years under the 1949 Act. The petitioners have remained in occupation of the land, in dispute, for 50 years, despite the expiry of the lease period and have rightly been ordered to be evicted by separate order.

In view of what has been held hereinabove, we find no error in the impugned orders holding that the Gram Panchayat is owner of the land, in dispute. The writ petition is, therefore, dismissed but with no order as to costs.

3. In view of ratio of judgment in Manohar Lal's case (supra), which covers the dispute between the parties, raised in this petition, no case is made out for interference. In this case also, admittedly, land is entered as Shamilat Deh in the

revenue record. The writ petition stands dismissed.