

(2000) 09 P&H CK 0069
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 11414 of 2000

Ralla Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 29-09-2000

Acts Referred:

Punjab Village Common Lands (Regulation) Act, 1961 — Section 2

Citation : AIR 2001 P&H 135

Hon'ble Judges : K.S. Garewall, J;Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : Mr. Gurnam Singh, for the Appellant;

Judgement

Jawahar Lal Gupta, J.—The petitioners pray for the issue of a writ of mandamus directing the respondent-authorities "to take a policy decision for the allotment of land on permanent basis after determining the market value of the land w.e.f. the date it was allotted to 13 members of the said society....." They also pray that the respondent-Gram Panchayat be not allowed to dispossess them from the land.

2. The petitioners aver that 140 acres of land in village Garhi Langri, Tehsil Pehowa, was allotted to them; They have been in cultivating possession of the land. After the land was made cultivable, they are now sought to be evicted by the Gram Panchayat. The petitioners allege that in view of the amendment of Section 2(g) by the Haryana Act No. 13 of 1996, the land stands excluded from "Shamilat Deh". As such, the Panchayat has no right in the land. On these premises, the petitioners have approached this Court and made the two-fold prayer, as noticed above.

3. We have heard Mr. Gurnam Singh, learned counsel for the petitioners. He contends that the land had been given on lease to the petitioners for a period of 20 years liven though the period of lease had expired in the year 1972, the petitioners have continued to remain in possession. Having made the land

cultivable, they have a right to continue in occupation. In any event, he submits that the State Government should frame a policy to allot the land on permanent basis. Secondly, the counsel contends that the land does not form part of the "Shamilat Deh". Thus, the Panchayat has no right over the land.

4. Admittedly, the land was given to the petitioners on lease. What were the terms of lease? How much lease money the petitioners had to pay every year? Have they been paying the amount or not? There is nothing on record. The petitioners have not placed on record even a copy of the original order by virtue of which the land was allotted to them. In the absence of this material, it cannot be said that there was any lease or that it conferred any right on the petitioners which may be violated by their eviction.

5. Still further, Mr. Gurnam Singh concedes that the petitioners have not paid any rent after the year 1972. Yet, they have unauthorisedly remained in occupation of the land. Thus, there is no equity in their favour. No interference is called for.

6. The counsel contends that in view of the amendment in the definition of "Shamilat Deh", the Panchayat has no right in the property. The clause on which reliance has been placed reads as under :-

"In this Act, unless the context otherwise requires -

(g) "shamlat deh" includes -

xx xx xx xx xx

but does not include land which -

(i) xx xx xx xx xx

(ii) has been allotted on quasi permanent basis to a displaced person;

(ii-a) was shamilat deh, but has been allotted to any person by the Rehabilitation Department of the State Government, after the commencement of this Act, but on or before 9th day of July 1985."

Learned counsel for the petitioners is unable to refer to any averment in the petition, indicating that the petitioners are displaced persons. However, he states that they are actually from that category. Assuming it to be so, the land can be excluded from "shamilat deh" only if it is shown that it has been allotted by the Rehabilitation Department or the State Government after the commencement of the Act but on or before July 9, 1985. In the present case the petitioners have not produced any letter of allotment. Giving of land on lease does not amount to allotment of land. Even a copy of the lease-deed has not been produced. Consequently, the case of the petitioners does not fall within the provision as noticed above. Resultantly, the contention that the land does not form part of "shamilat deh" cannot be sustained.

7. Faced with the above, learned counsel contends that the Panchayat has not initiated any proceedings against the petitioners. If that be so, we do not

understand as to what is the grievance of the petitioners against the Panchayat. In fact, the petition appears to have been filed to perpetuate unauthorised occupation.

8. Lastly, the counsel has referred to the decision of a learned single Judge of this Court in Civil Writ Petition No. 5282 of 1982 (Bachna Ram and another v. The State of Punjab) decided on February 12, 1997. This was a case where the land was transferred on "quasi-permanent basis." Such is not the position in the present case. Herein, no transfer has taken place.

No other point has been raised.

In view of the above, we find no merit in this writ petition. It is, consequently, dismissed in limine.

10. Petition dismissed.