
(2003) 09 P&H CK 0024

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 13122 of 2003

Rishi Pal and Others

APPELLANT

Vs

Commissioner, Ambala Division and Others

RESPONDENT

Date of Decision : 25-09-2003

Acts Referred:

Punjab Village Common Lands (Regulation) Act, 1961 — Section 2, 2(4), 7

Citation : (2004) 136 PLR 479 : (2004) 1 RCR(Civil) 26

Hon'ble Judges : V.K. Bali, J; Jasbir Singh, J

Bench : Division Bench

Advocate : C.B. Goel, for the Appellant;

Final Decision : Dismissed

Judgement

V.K. Bali, J.—Challenge in the present petition filed under Article 226 of the Constitution of India is to concurrent orders of eviction passed by the Assistant Collector and Commissioner dated 24.1.2003, 6.5.2002 and 6.8.2003, An-nexure P11, P13 and P15 respectively. These orders have since been passed against the petitioners in eviction proceedings launched against them u/s 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as "the Act of 1961").

2. The entire revenue record produced before the concerned authorities would consistently show that there is an entry of "Panchayat deh" in the column pertaining to ownership of the land and in the column of cultivation, "Makbuja Kumaharan" (potters) has been recorded. The nature of land is shown as "Gair Mumkin Panjawa". Concededly, Panjawa is a place where potters get themselves engaged in carrying out their avocation of pottery. It is significant to mention that it is the case of the petitioners themselves that the land has been shown in the revenue record as mentioned above and yet, it is being vehemently argued by Mr. C.B.Goel, learned counsel for the petitioners, that the land would not vest with the Gram Panchayat under the provisions of the Act of 1961 as the same would not come under the definition of shamlat deh as given in Section 2(g)(1)

of the Act. It is being strenuously urged by Mr. Goel that Clause (1) of Section 2(g) of the Act of 1961 specifically mentions the lands described in the revenue record as "shamlat deh" or "charant". Inasmuch as the entry in the column of ownership in the present case is "panchayat deh" and not "shamlat deh", land in dispute would not be covered under the definition of shamlat deh, contends the learned counsel.

3. The contention of learned counsel; as noted above, it appears to us, has been made by completely ignoring or being oblivious to other clauses of Section 2(g) of the Act of 1961. Clause (4) of Section 2(g), which was inserted by Act No. 9 of 1992 and that, in our view, would cover the case in hand, reads thus:-

"4. Lands used or reserved for the benefit of village Community including streets, lanes, playgrounds, schools, drinking wells or ponds situated within the sabha area as defined in Clause (mmm) of Section 3 of the Punjab Gram Panchayat Act, 1952, excluding lands reserved for the common purposes of a village u/s 18 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (East Punjab Act 50 of 1948), the management and control whereof vests in the State Government and control whereof vests in the State Government u/s 23-A of the aforesaid Act".

4. Irrespective of the fact that in the column of ownership, the entry is "panchayat deh", the fact that the land in dispute appears to be used or reserved for the benefit of the village community and we may mention here that it would have in its sweep, a particular community of the village as well, that Panjawa would be covered under Clause (4) of Section 2(g) of the Act of 1961. If, therefore, a particular piece of land may be used or reserved for the benefit and use of a particular community, it would be covered" under the definition of "shamlat deh" as given in Section 2(g) of the Act of 1961. We may mention here that the mention of words "streets", lanes, playgrounds, schools drinking wells or ponds" would not make it that the land can be shamlat deh only if it is being used for the purposes mentioned above, as these words, like streets etc. include lands reserved or used for the benefit of village community. The common purposes mentioned in Clause (4) of Section 2(g) are not all exclusive. The said purposes have, however, been mentioned as public purpose but, as mentioned above, that, does not-mean that the land reserved for any other purpose would not be included or covered under Clause (4) of Section 2(g).

Finding no merit in this petition we dismiss the same in limine.

Sd/- Jasbir Singh, J.