

(2016) 01 P&H CK 0009
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 3629 of 1994

Roshan Lal & Ors.

APPELLANT

Vs

State of Haryana & Ors.

RESPONDENT

Date of Decision : 07-01-2016

Acts Referred:

Constitution of India, 1950 — Article 226
Punjab Village Common Lands (Regulation) Act, 1961 — Section 7

Citation : (2016) 1 LawHerald 392 : (2016) 2 RCRCivil 378

Hon'ble Judges : Surya Kant;P.B. Bajanthri, JJ.

Bench : Division Bench

Advocate : Ms. Kirti Singh, DAG, Haryana, C.P. Tiwana, Advocate for Mr. R.S. Chahar, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

Surya Kant, J. (Oral) - The petitioners are residents of Village Munak, Tehsil Gharaunda, District Karnal. They have sought a writ of prohibition to restrain the Assistant Collector Ist Grade, Karnal from proceeding with the execution proceedings pending against them at the instance of the Gram Panchayat.

2. Brief facts of the case are that the Gram Panchayat-respondent No.4 initiated eviction proceedings against the petitioners under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short "the 1961 Act") as applicable to the State of Haryana for their eviction from the Gram Panchayat land. The petition was allowed, eviction order was passed. The appeal etc. were also declined. The aggrieved petitioners came to this Court in CWP No.14902 of 1992. A learned Single Judge of this Court referred the aforesaid case to a Larger Bench due to conflict of judgments rendered by this Court but further directed as follows:-

"It is admitted position that for the kind of land which is in their occupation, Gram Panchayat can earn minimum of RS. 4,500/- per acre per year. It is, thus, ordered that the petitioners would pay to the Gram Panchayat at the rate of RS.

4,500/- per acre per year from 8.10.92, the date when the Assistant Collector passed orders of eviction against them. If they do not pay this amount within a period of one month from today, it shall be open to the Gram Panchayat to execute the order of eviction passed against them."

3. The petitioners claimed to have complied with the conditional stay order and deposited certain amounts as per the details given in para 4 of the writ petition. The Gram Panchayat, however, has taken a stand in the corresponding para of the written statement that the amount deposited by the petitioners was in part only and nothing was deposited for the years 1992-93 and 1993-94. The Gram Panchayat has also explained that the petitioners were required to deposit the said amount on yearly basis as a huge chunk of land measuring 315 kanal 6 marla was occupied by them.

4. It was in this backdrop that the Gram Panchayat instituted execution proceedings due to alleged non-compliance of the conditional stay order passed by this Court.

5. The petitioners, on the other hand, claimed that since they have deposited some amounts, the execution proceedings were not maintainable.

6. We have heard learned counsel for the parties and gone through the record.

7. The orders passed by this Court from time to time reveal that though dispossession of the petitioners was stayed on 22.3.1994 but it was made conditional on 17.8.1994 "subject to the deposit as per the order dated October 20, 1993 in CWP No. 14920 of 1992."

8. Thereafter, on 3.12.2013 it was brought to the notice of this Court that the petitioners did not deposit even a single penny after 20.11.1993. In other words, the petitioners brazenly disobeyed the orders of this Court passed in their earlier writ petition as well as in the instant writ petition and did not pay any user charges for more than ten years. Notwithstanding that, this Court again gave an opportunity to the petitioners to deposit the due amount up to date and submit a compliance report.

9. Learned counsel for the Gram Panchayat states at the Bar that order dated 3.12.2013 has not been complied with so far. To say it differently, the petitioners have not deposited even a single penny till date from November 1993 till date.

10. Having regard to the conduct of the petitioners and their deliberate disobedience of the Court orders coupled with the fact that they have not approached this Court with clean hands, the instant writ petition is dismissed with cost of RS. 10,000/-. The Deputy Commissioner, Karnal, SDO (Civil), Gharaunda and Block Development and Panchayat Officer of the area concerned are directed to provide full assistance to the Gram Panchayat to take possession of the subject land, in accordance with law and also to recover the mesne profits/user charges as assessed by this Court as an interim measure vide order dated 20.10.1993 from every occupier of the land as "Arrears of land revenue" within

three months and send a compliance report to the Registrar General.