
(1995) 04 P&H CK 0035
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 607 of 1994

Savitri

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 04-04-1995

Acts Referred:

Citation : (1996) 1 CurLJ 311 : (1996) 3 LJR 421 : (1996) PLJ 251 : (1996) 1 RRR 697

Hon'ble Judges : G.S.Singhvi, J

Advocate : Mr. Narottam Kaushal, Advocate., Advocates for appearing Parties

Judgement

G.S. Singhvi, J.

1. Petitioners have prayed for quashing of order dated 11.10.1993 passed by the Collector, Karnal under the provisions of the East Punjab Utilization of Lands Act, 1949.

2. Gram Panchayat of village Alipur Khalsa, tehsil and district Karnal, filed an application under Sections 3 and 5 of the East Punjab Utilization of Lands Act, 1940, before the Collector, Karnal for ejectment of the petitioners from the land in dispute. Notice of this application was given to the petitioners, who filed their objections. After hearing the parties, the Collector passed order (Annexure P.30 dated 11.10.1993. whereby he ordered ejectment of the petitioners and at the same time ordered the petitioners to pay a sum of Rs. 44, 175/ on account of illegal occupation of the Government land. Appeal filed by the petitioners against the order dated 11.10.1993 was dismissed on 9.12.1993 by the Commissioner, Rohtak Division, Rohtak.

2A. Petitioners have challenged the legality of the order dated 11.10.1993 on the ground that respondent No. 4 did not produce any evidence to prove misutilization of the land by the petitioners and that the Collector has passed the impugned order on surmises and conjectures. Another ground of challenged is that there is no provision under the 1949 Act for award of interest.

3. In its written statement, respondent No. 4 has stated that the petitioners are guilty of concealment of material facts, namely, that they had filed Civil Suit No. 862 of 1993 in the Court at Karnal and had succeeded in persuading the Court to pass an order of injunction in their favour. The factum of filing of the civil suit has been deliberately omitted from the writ petition is the allegation of the respondents. On merits also respondent No. 4 has submitted that the order passed by the Collector does not suffer from any legal error so as to justify interference by this Court under Article 226 of the Constitution of India.

4. At the commencement of hearing we called upon the learned counsel for the petitioners to controvert the statement made in the reply that the petitioners had filed a civil suit, got an order of injunction in their favour and also that they have concealed this fact from the Court. In our opinion, filing of a civil suit by the petitioners and passing of an injunction order in their favour were certainly the facts which were material to the filing of the writ petition and by suppressing these facts, the petitioners could persuade this Court in passing an order of notice of motion and conditional stay. If this court had known that the petitioners had got an injunction order from a civil court, it would have nonsuited the petitioners on the ground that they have availed alternative remedy. By concealing the true facts, the petitioners succeeded in misleading the Court in passing the orders in their favour and therefore, we are of the view that the petitioners have disentitled them from a hearing by this Court on the merits of the case.

5. Consequently the writ petition is dismissed on the ground of suppression of material facts. We would have saddled the petitioners with exemplary costs but in view of the fact that she is a widow and was having three minor children on the date of filing on the petition, we leave the parties to bear their own costs.