
(2005) 05 P&H CK 0062
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 3594 of 1985

Sawan Singh (Dead) through LRs.

APPELLANT

Vs

Joint Director of Panchayats and another

RESPONDENT

Date of Decision : 11-05-2005

Acts Referred:

Citation : (2005) 3 RCR(Civil) 817

Hon'ble Judges : Jasbir Singh, J

Advocate : Mr. N.S. Rapri, Advocate.For the Respondents No. 1, Mr. D.S. Bishnoi, Addl. A.G., Punjab.For the Respondents No. 2, Mr. Vaneet Soni, Advocate for Mr. Akshey Bhan, Advocate., Advocates for appearing Parties

Judgement

Jasbir Singh, J. (Oral)

1. The petitioner (deceased, through his legal representatives) has filed this writ petition under Articles 226/227 of the Constitution of India for issuance of a writ of Certiorari to quash impugned order dated 21st May, 1985, Annexure P/3, passed by respondent No. 1 against the provisions of Punjab Common Lands (Regulation) Act, 1961 (for short 'the Act').

2. Briefly, it was the case of the petitioner that he filed an application under Section 11 of the Act before the Sub Divisional Officer (Civil) exercising powers of Collector, Rajpura, for getting possession of land measuring 27 Bighas 13 Biswas, description of which was given in the application, referred to above. It was case of the petitioner that he being coshares was entitled to get possession of the above said land.

3. It is apparent from the record that the application under Section 11 of the Act was filed on 19th June, 1980 and the same was taken up for consideration by the Collector, Sub Division Rajpura, on 1st October, 1981. After contest, it was allowed on 31st January, 1984 and the petitioner was held entitled to get possession of land measuring 21 bighas comprised in Khasra No. 54 Min (140) and 54 Min (70) (copy of the order is placed on record as Annexure P/2).

4. Feeling aggrieved from the order dated 31st July, 1984, Gram Panchayat respondent No. 2 filed an appeal before respondent No. 1. Appeal was allowed, vide order dated 21st May, 1985, Annexure P/3, in favour of the Gram Panchayat and the order passed by the Sub Divisional Officer (Civil) Rajpura was set aside. Hence this Civil Writ Petition.

5. Heard counsel for the parties. After hearing counsel for the parties, this Court feels that the present writ petition deserves to be dismissed.

6. It is apparent from record that appeal filed by respondent No. 1 was not allowed by respondent No. 1 on merits. Rather, it was allowed on a technical ground that the Collector (Sub Divisional Officer), Rajpura, passed the order in favour of the petitioner dated 31st July, 1984 without jurisdiction. It is apparent from the record that by notification dated 17th January, 1983, Annexure P/4, powers of the Collector under Section 2 of the Act were conferred on Sub Divisional Officers (Civil) of Patiala District. However, subsequently, by notification dated 15th September, 1980, Annexure P/5, which superseded the notification dated 17th January, 1980, in pursuance of provision of Section 2 of the Act, Divisional Deputy Director, Panchayat Raj and Community Development Patiala and Principal Gram Sewaks, Training Centre, Nabha were conferred powers of Collector for Sirhind and Nabha Tehsil and Amloh Sub Tehsil of Patiala District respectively. So far other area is concerned, District Development and Panchayat Officer was to exercise the powers of the Collector in pursuance to the notification dated 26th December, 1977.

7. This Court feels that respondent No. 1, taking the above facts into consideration, has rightly allowed the appeal filed by respondent No. 2 on the ground that order dated 31.7.1984 passed by the Collector (Sub Divisional Officer) Rajpura was without jurisdiction, as he was not conferred with the power of Collector, which was apparent from the above said facts. The impugned order appears to be very fair, as respondent No. 1 gave liberty to the petitioner to move an application under Section 11 of the Act before the Court having competent jurisdiction within sixty days from the order under challenge. This Court is of the opinion that the order Annexure P/2 was just and proper and calls for no interference.

Dismissed. However, petitioners are granted liberty to move an application under Section 11 of the Act before the Court having jurisdiction, within two months from the date of receipt of a copy of this order.