
(2012) 04 P&H CK 0137
In the Punjab And Haryana At Chandigarh
Case No : L.P.A No. 846 of 2009

Sehaj Ram and another

APPELLANT

Vs

Collector, Yamuna Nagar and others

RESPONDENT

Date of Decision : 18-04-2012

Acts Referred:

Punjab Village Common Lands (Regulation) Act, 1961 — Section 2(g)(1), 2(g)(5)(viii), 2(g)(i), 4, 7

Citation : (2012) 3 RCR(Civil) 106

Hon'ble Judges : Tej Pratap Singh Mann, J; Satish Kumar Mittal, J

Bench : Division Bench

Advocate : Mahavir Sandhu, for the Appellant;

Judgement

Satish Kumar Mittal, J.—This Letters Patent Appeal has been filed against the order dated 20.4.2009, passed by the learned Single Judge, whereby the writ petition (Civil Writ Petition No. 5832 of 2009) filed by the appellants, challenging the orders dated 16.11.2006 and 10.6.2008 (Annexures P-8 and P-9) passed by the Assistant Collector 1st Grade, Yamuna Nagar; and the Collector, Yamuna Nagar, respectively, ordering their eviction from the land in question, was dismissed. We have heard learned counsel for the appellants and gone through the impugned order passed by the learned Single Judge, as well as the orders, passed by the Assistant Collector 1st Grade and the Collector.

In this case, the Gram Panchayat of village Rampur Kamboyan/Bihta, Block Bilaspur, Tehsil Jagadhri, District Yamuna Nagar, filed an application u/s 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (As Applicable to Haryana) (hereinafter referred to as "the Act") against the appellants for their eviction from the land in dispute, claiming that they were in illegal and unauthorised occupation of the land in dispute, which vested in the Gram Panchayat. The appellants contested the application by alleging that the Gram Panchayat was not the owner of the land in dispute and it did not fall under the definition of shamilat deh. It was also alleged that the land in dispute was not reserved for any

common purpose of the village. The Assistant Collector 1st Grade, on the basis of the revenue record available on record, held that in the revenue record, the land in dispute was recorded as shamilat deh and as per Section 2(g)(i) of the Act, such land vests in the Gram Panchayat. The possession of the appellants on the land was found to be illegal and unauthorised. They were ordered to be evicted and penalty of Rs. 10,000/- per hectare per annum was also imposed upon them for illegal use and occupation of the land. The Collector also affirmed the said findings.

2. During the course of arguments, it has not been disputed that in the revenue record, the land in question was described as Shamilat Deh Hassab Hissa Halsari. In view of Section 2(g)(1) of the Act, such land falls under the definition of "shamilat deh" and u/s 4 of the Act vests in the Gram Panchayat. Though before the Assistant Collector 1st Grade, the appellants did not claim that they were in continuous possession of the land in dispute prior to 26th January, 1950, yet before the Collector and the learned Single Judge, on the basis of the jamabandi for the year 1945-46, they raised a plea that they were in individual cultivating possession of the land in dispute prior to 26th January, 1950. The Collector as well as the learned Single Judge, after considering the said submission, came to the conclusion that the said jamabandi did not prove possession of the appellants on the land in question, because it was not found that the said jamabandi pertained to the disputed land.

3. Learned counsel for the appellants argued that the Assistant Collector 1st Grade, in exercise of its power under the proviso to Section 7(1) of the Act, did not convert the eviction proceedings in a title suit and thus, the appellants were deprived of opportunity to lead evidence to establish that they were in individual cultivating possession of the land in dispute prior to 26th January, 1950, therefore, their case falls u/s 2 (g) (5) (viii) of the Act. This contention of the learned counsel is not sustainable. A perusal of the orders passed by the Assistant Collector 1st Grade and the Collector clearly indicates that when the eviction proceedings were pending before the Assistant Collector 1st Grade, the appellants did not make out a prima facie case for converting the proceedings under proviso to Section 7(1) of the Act into a title suit. A perusal of the reply filed by the appellants before the Assistant Collector 1st Grade further indicates that no prima facie question of title was raised by them. In that reply, even they did not claim that they were in possession of the land in dispute prior to 26th January, 1950. Actually, the illegal possession of the appellants on the land in dispute came in the jamabandi for the year 2000-01. Thus, learned counsel for the appellants has failed to point out any illegality in the order passed by the learned Single Judge.

No merit. Dismissed.