
(1979) 04 P&H CK 0005
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 272 of 1979

Siri Ram

APPELLANT

Vs

The State of Haryana and Others

RESPONDENT

Date of Decision : 20-04-1979

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Punjab Village Common Lands (Regulation) Act, 1961 — Section 2, 7(2)

Citation : (1981) 3 ILR (P&H) 512

Hon'ble Judges : I.S. Tiwana, J

Bench : Single Bench

Advocate : V.K. Jain, for the Appellant; Naubat Singh, D.A.G. for Respondent
Nos. 1 to 3 and Rajesh Chaudhry, for the Respondent

Final Decision : Dismissed

Judgement

I.S. Tiwana, J.—Through this petition under Articles 226/227 of the Constitution of India, the order of ejectment passed against the Petitioner u/s 7(2) of the Punjab Village Common Lands (Regulation) Act, 1961, as applicable in the State of Haryana is impugned on two grounds:

- (i) that the land in question did not vest in the Gram Panchayat and
- (ii) Sub-section (2) of Section 7 is ultra vires the Constitution of India.

2. So far as the first ground of attack is concerned, the contention of the learned Counsel is that as per entries in the Jamabandi Exhibit A/3 though the property in question is owned by "Patti Pira Toda" yet there is no further entry in the revenue record showing that this land belonging to the Patti was being used for common purposes of the village community and thus this land cannot be held to be Shamilat Deh land as defined by Section 2(g) of the Act. The whole argument is misconceived as in Exhibit A/3 in the column pertaining to cultivation it is specifically mentioned that the land in question is being used by the general public. In the face of this factual position, the above noted contention of the

learned Counsel has no merit.

3. So far as the second contention of the learned Counsel noted above is concerned, his argument is that though Sub-section (2) prescribes minimum and maximum limit of the penalty which can be imposed by the Assistant Collector yet the determination of the actual amount of penalty is left to his sole discretion and to that extent this power vested in him is unguided and unregulated. I see no merit in this contention for the short reason that this sub-section prescribes that while determining the quantum of penalty, the Assistant Collector shall have regard to the benefit which could be derived by the person in an unauthorised occupation of the shamilat land. This provides enough of guidelines for determining the actual quantum of penalty to be imposed under this sub-section.

4. Yet another argument has been raised by the learned Counsel for the Petitioner on the ground that the quantum of penalty determined by the lower Courts is highly excessive and there is no rational basis for the same. This contention of the learned Counsel has been noted to be rejected in view of the observations of the Collector in the last para of his impugned order wherein it has been said that at the time of hearing before him (Collector) no objection was raised by the Petitioner about the imposition of penalty. Though in the petition this factual position as observed by the Collector has been denied, yet in the absence of any material to support that assertion, the observation made in the order can-not be taken to be wrong.

5. In the light of the discussion above, I do not find any merit in this petition and dismiss the same but with no order as to costs.