
(1995) 03 P&H CK 0137

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 16265 of 1991

Thakur Singh and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 24-03-1995

Acts Referred:

Punjab Village Common Lands (Regulation) Act, 1961 — Section 11

Citation : (1995) 110 PLR 357

Hon'ble Judges : V.K. Jhanji, J

Bench : Single Bench

Advocate : Sarjit Singh and Vikas Singh, for the Appellant; G.S. Cheema, A.A.G., for the Respondent

Final Decision : Dismissed

Judgement

V.K. Jhanji, J.—In this petition, the petitioners are seeking a writ of certiorari for quashing the impugned orders, Annexure P-1 and P-2 passed by the Collector, Patiala and Additional Director, Panchayats, Punjab respectively.

2. Petitioners filed application u/s 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short the Act) before the Collector, Patiala, exercising the powers of D.D.P.O. alleging therein that they are owners of land measuring 38 Kanals, Application was filed as the petitioners apprehended that the Gram Panchayat wanted to forcibly dispossess them and thus they sought declaration that they be declared owners of the land in dispute. The Gram Panchayat contested the application of the petitioners. Both the parties were given opportunity of leading evidence and after having considered the evidence and after having considered the evidence, the Collector vide order dated 3.2.1988 rejected the application after finding that the petitioners had taken the land on lease from the Gram Panchayat. Having felt aggrieved of the order, the petitioners preferred appeal before the Additional Director, Panchayats, Punjab exercising the powers of Commissioner, who vide order dated 7.6.1991, after having gone through the relevant Jamabandis, came to the conclusion that the

land in dispute has been shown as Shamilat Deh in the year 1955-56. Thereafter, mutation of the land was sanctioned in favour of the Gram Panchayat. The Commissioner also found that after the expiry of the lease period, petitioners took forcible possession of the land in dispute.

3. Learned counsel for the petitioners, on the strength of judgment in Nant Singh Vs. Joint Director Panchayat, has questioned the orders of the authorities on the ground that they have decided the matter in a summary manner without framing an issue on the question of title.

4. Having heard the learned counsel for the parties, I am of the view that there is no merit in this petition. In Nant Singh's case (*supra*) the grievance of the petitioners was that the question of title could not be decided in a summary manner and it was mandatory for the Collector to have framed necessary issues and to have recorded evidence of both the parties and recorded a finding thereon. On that grievance, the orders of the authorities i.e. the Collector as well as the Joint Director were set aside and the case was remanded to the Collector for fresh decision after framing necessary issues and recording evidence. As noticed, in the present case, both the parties were given an opportunity of leading evidence. At no stage, a grievance was made by the petitioners that issues are required to be framed or any prejudice has been caused to them for non-framing of the issues. Gram Panchayat in the written statement has specifically averred that the petitioners had taken the land in dispute on lease from the Gram Panchayat and on expiry of the lease period have started questioning the title of the Gram Panchayat. No replication to deny this averment has been filed meaning thereby that the petitioners admit that the land in dispute was taken on lease from the Gram Panchayat. Having taken the land on lease from the Gram Panchayat, it is not open to the petitioners to say that the Gram Panchayat is not the owner of the land in dispute. Petitioners are estopped by their conduct and act to question the title of the Gram Panchayat. Both the Authorities have, on the basis of oral as also documentary evidence on record, returned a finding that the land in dispute belongs to the Gram Panchayat and this being a finding of fact, cannot be questioned in proceedings under Article 226 of the Constitution of India. Accordingly this writ petition shall stand dismissed with no order as to costs.