
(1968) 11 P&H CK 0027

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ No. 3005 of 1968

The Backward Classes Co-Operative Agricultural Society
Limited

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision : 21-11-1968

Acts Referred:

Citation : (1968) 11 P&H CK 0027

Hon'ble Judges : Bed Raj Tuli, J

Bench : Single Bench

Advocate : A.N. Mittal, for the Appellant; Surjit Kaur for Advocate-General Punjab, for the Respondent

Final Decision : Allowed

Judgement

B.R. Tuli, J.—The petitioner is the Backward Classes Cooperative Agricultural Society Limited, Sarai Mughal (Shambhoo), tehsil Rajpura district Patiala. It consists of twenty-one members who are all Harijans. It was registered on 2nd October, 1956 under registration No. 3228.

2. According to the petitioner 99 Bighas and 14 Biswas of Nazul land in village Mughal Sarai was sold to the petitioner Society by the Punjab Government in 1956 for the price assessed at the rate of ninety times the land revenue. This price was payable by the petitioner Society in twenty half-yearly instalments, that is, within ten years. The possession of the land was given to the petitioner Society in the year 1956 and the Society paid Rs. 4155/- on account of the price of the land in twenty instalments of Rs. 207.75 and thus the petitioner Society became the full owner of the land through sale. The formal sale-deed, however, has not been executed in favour of the petitioner Society. The land was Banjar Qadim and the petitioner Society has reclaimed this land and made it cultivable having spent hard labour and has been in peaceful possession of the same since the day its possession was given to the Society in 1956. The District Magistrate, Patiala, respondent No. 2, issued letter No. 725 dated the 30th July, 1968, to the

Superintendent of Police, Patiala, respondent No. 3, to give police help to the Sub Divisional Officer (Civil), Rajpura, respondent No. 4, for taking over the possession of the land from the petitioner Society. The Assistant Sub-Inspector of Police of Rajpura Police Station went to the village of the petitioner Society and asked it to deliver possession of the land to the Sub Divisional Officer (Civil), Rajpura, as desired by the District Magistrate. The Society, however, refused to surrender the possession and has filed the present writ petition for a direction to the respondents not to dispossess the petitioner Society from the land.

3. Return has been filed by respondent Nos. 2 and 3. Respondent No. 2, the District Magistrate, has admitted that the petitioner is a Co-operative Society registered under the Cooperative Societies Act. He has, however, alleged that the land in question belongs to the ex-forces of Patiala State which have been merged with the Central forces and accordingly the proprietorship of the land in question vests with the Central Government. Accordingly the Punjab Government was not competent to sell the land and the rules regarding transfer of Nazul land were not applicable as the land belongs to the Central Government and is not escheated property. According to him the land was not sold to the Society but he has admitted that the Society paid Rs. 4155/- in twenty installments. It has not been made clear what was the nature of the payment made by the petitioner Society in twenty installments. It is further averred that the Society is in unauthorized possession of Government land and the State of Punjab can take over the possession of the land. He had admitted the writing of the letter to the Superintendent of Police asking him to render help to Sub-Divisional Officer (Civil), Rajpura, at the time of taking possession. The Central Government has desired that the Punjab State should hand over the possession and get the unauthorized occupation of the land vacated, It is for this reason that the action has been taken by the Sub-Divisional Officer (Civil) under the directions of the District Magistrate. Respondent No. 3 the Superintendent of Police, has admitted the receipt of the letter from the District Magistrate, Patiala, but has denied that any police force went to the village in order to take possession from the petitioner Society.

4. From the pleadings of the parties it is quite clear that the petitioner Society went into possession of the land under a valid title given to it by some official of the Punjab Government and the Punjab Government has received the sum of Rs. 4155/- from the petitioner Society. According to the petitioner Society this amount represents the price of the land purchased by it whereas according to the respondents the land was never sold. There is thus a dispute on facts and it is not open to the respondents to forcibly dispossess the petitioner Society from the land in question without taking the appropriate proceedings in accordance with law. Their Lordships of the Supreme Court observed in *Bishan Das and Others Vs. The State of Punjab and Others*, as under:

That the respondents had clearly violated the fundamental rights of the petitioners who were bona fide in possession by depriving them of the possession

of the properties by executive orders and therefore the orders must be quashed and the respondents must be restrained from interfering with the petitioners in the management of those properties.

In the present case no order has been shown to me as having been passed against the petitioner Society for their dispossession from the land in question. The petitioner Society is asserting not only a possessory title but ownership of the land in question on the basis of the sale of the land to it by the Government in pursuance of which it paid Rs. 4155/- in twenty half-yearly instalments on account of its price. These matters require to be investigated and the respondents cannot by-pass legal remedies and have a resort to force.

5. For the reasons given this writ petition is accepted with costs and the respondents are directed not to dispossess the petitioner Society from the land in question except in accordance with law. Counsel's fee Rs. 100/-.