

(2011) 11 P&H CK 0090

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 20480 of 2011

Tilak Raj @ Abdul Gafur and another

APPELLANT

Vs

Commissioner, Ambala Division, Ambala and others

RESPONDENT

Date of Decision : 18-11-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Punjab Village Common Lands (Regulation) Act, 1961 — Section 7(2)

Citation : (2011) 11 P&H CK 0090

Hon'ble Judges : Satish Kumar Mittal, J;Paramjeet Singh, J

Bench : Division Bench

Judgement

Satish Kumar Mittal, J.—The Petitioners have filed the instant writ petition under Articles 226/227 of the Constitution of India for quashing the order dated 3.2.2010 passed by the Assistant Collector Ist Grade, Thanesar, whereby on an application filed by Respondent No. 4-Kashmir Singh u/s 7(2) of the Punjab Village Common Lands (Regulation) Act, 1961, the Petitioners have been ordered to be evicted from the land in dispute; as well as the orders dated 20.5.2011 and 5.7.2011, whereby the appeal and revision filed by the Petitioners against the aforesaid order, have been dismissed.

2. The eviction petition was filed against the Petitioners alleging therein that they had illegally occupied a part of Khasra No. 63/11 (19 Kanals 1 Marla), which, as per Jamabandi for the year 2002-03, vests in the Gram Panchayat and was reserved for a pond. On demarcation before the Assistant Collector Ist Grade, 8 Marlas of land was found in illegal possession of the Petitioners where they had constructed a house. The Assistant Collector Ist Grade came to the conclusion that the disputed portion of the land was a part of the pond, which is a public purpose, and owned by the Gram Panchayat, therefore, the possession of the Petitioners on the said portion was illegal. The said order was affirmed in appeal as well as revision. A perusal of the Appellate order further indicates that during the course of hearing of appeal the land in dispute was again got demarcated and again the Petitioners were found in illegal portion of the aforesaid land.

3. Learned Counsel for the Petitioners argued that in the instant case the authorities below have not considered the issue of title raised by the Petitioners. It is the case of the Petitioners that the owner of this land was Smt. Rani, who had purchased this land vide an agreement dated 30.11.2004 from Tilak Raj (Petitioner No. 1), who claimed himself to be owner of this land, that too, on the basis of an agreement dated 31.3.2001 with one Mukhtiar Singh and Satpal Singh, sons of Inder Singh.

4. In our opinion, on the basis of such agreement, nobody can claim ownership of this land without getting the land in dispute transferred in his name, particularly when in the revenue record the land has been recorded in the name of the Gram Panchayat. Therefore, the contention of the Petitioners that a question of title is involved on the basis of such agreement, has rightly been discarded by the authorities below. The authorities have passed the order of ejectment after coming to the conclusion that the land in dispute is owned by the Gram Panchayat, which is reserved for the pond and used as such, therefore, the Petitioners have no legal right to retain the possession of the Gram Panchayat land.

5. The last contention raised by the learned Counsel that the Petitioners may be permitted to purchase the land in dispute, cannot be accepted because the land meant for common purpose of the village cannot be transferred on the basis of illegal possession under the Punjab Village Common Lands (Regulation) Rules, 1964 (as applicable to Haryana).

6. Dismissed.