(2025) 12 P&H CK 0035

Punjab And Haryana HC

Case No: Civil Writ Petition No. 35208 Of 2025 (O&M)

Krishan Lal Through His Legal Heirs And Others		APPELLANT
	Vs	
State Of Haryana And Others		RESPONDENT

Date of Decision: Dec. 9, 2025

Acts Referred:

- Constitution Of India, 1950-Article 226
- Punjab Village Common Lands (Regulationi) Act, 1961-Section 7(1), 7(2), 29

Hon'ble Judges: Deepak Sibal, J; Lapita Banerji, J

Bench: Division Bench

Advocate: Rohiteshwar Singh, Saurabh Mago

Final Decision: Dismissed

Judgement

Lapita Bannerji, J

1. The prayer in the present writ peetition filed under Article 226 of the Constituution of India, inter-alia, is for isssuance of a writ in the nature of Certiorari for quashing/setting-aside of the impugned order dated November 18/20, 2020 (Annexure P-3) passed by the Assistant Collector 1st Grade, district Kaithal, order dated March 29,, 2022 (Annexure P-5) passed by the Collector, district Kaithal-respondent No.3 and the order dated June 12, 2025 (Annnexure P-7) passed by the Divisional Commissioner, Karnal Division, Karnal- respondent No.2. The petiitioners have also prayed for stay of operation of the impugned orders durring the pendency of the writ petition.

2. The brief facts of the case are as follows:

i) Inn 2017, Satpal Singh-respondent No.5 filed an application under Section 7(2) of the Punjab Village Commmon Land (Regulations) Act, 1961 (hereinaafter referred to as “the 1961 Act”), for eviction of the petitioners from the land situate in Khasra No.168, 680, 690, 694 in Khevat No.836, Khataauni No.917 situated in village Sirsal, Tehsil Pundri.

ii) It was alleged in the eviction petition by respondent No.5 that due to the peetitioners' illegal encroachment of gair mumkin raasta the villagers were facing a lot of hardship while commuting. Despite repeated requests the peetitioners did not remove the enncroachments and therefore, it became absoluutely necessary for respondent No.5 to file the petition under Section 7(2) off the 1961 Act.

iii) The petitioners filed a written statement to the petition under Section 7(2) of the 1961 Act wherein it was specifically pleaded that the petitioners hadd a civil Court decree in their favvour which held that it was the respondent No.5 who was in illegal occupation of the Gram Panchayat land and not the pettitioners.

iv) As a counter blast to the civil suit filed by the petitioners, the respondent No.5 filed the instant application under Section 7(2) of the 1961 Act which wass decided against the petitioners by the Assistant Collector on November 18//20, 2020. The appeal filed by thhe petitioners against the said CWP No.35208 of 2025 order was dismissed by the Collector on March 29, 2022. The revision petition from the impugned orders dated Noveember 18/20, 2020 and March 29, 2022 was dismissed by the Divisional Coommissioner vide order dated June 12, 2025.

v) Under challenge in the present writ petition are the aforesaid orders dated November 18/20, 2020, March 29, 2022 and June 12, 2025 (hereinafter referred to as "the impugned orderrs").

SUBMISSIONNS

3. Learned counsel appearing on behalf of the petitioners submits that the impuggned orders suffer from complette non-application of mind as the same have been passed without taking intto consideration the judgment dated Februarry 20, 2016 passed by the learned Civil Judge (Junior Division), Kaithal, in Civil Suit No.108 of 2015 titled 'Krishan Lal v. Satpal and othhers' and the judgment dated September 26, 2017 passed by the learned Additional District Judge, Kaithal in Civil Appeal No.30 of 2016 titled 'Saatpal v.Krishan Lal and others'.

4. It is further submitted that no proper opportunity of hearing was granted to the petitioners by the Assistant Collector since the impugned order dated Noovember 18/20, 2020 was passedd when the entire country was affected by COVID-19 pandemic. It is also vehemently argued that respondent Noo.5 being an illegal encroacher himself could not maintain a petition under Section 7(2) of the 1961 Act for eviction of the petitioners and it is only the Gram Panchayat which could have maintained a petition under Section 7(2) of the 1961 Act.

5. Mr. Mago, learned DAG, Haryanna, appearing on behalf of the State on advannce notice, submits that the orders of eviction passed against the petitioner are well founded and based onn revenue records. Therefore, there is no arbitrariness or perversity in passing of the orders under challenge.

DISCUSSIONN AND FINDINGS

6. This Court has heard learned counsel for the parties and perused the maaterial on record.

7. From a perusal of the judgment and decree dated February 20, 2016 passed by the learned Civil Judge (Junior Division), Kaithal, it appears that a suit for permanent injuncttion praying for restraining defendant no.1-Satpal (respondent No.5 in thhe present writ petition) from creating any obstruction in the construction work of naalies and streets on the land comprised in Khasra no.680, was filed. The grievance of the plaintiff/petitiooner No.1 through his legal representatives was that the respondent Noo.5 was obstructing the construction of naalies by the Gram Panchayat on both sides of the street in Khaasra No.680 from Mark-A to Mark-B thereby restricting the discharge of filthy water from gali in question wheree the house of the plaintiff was situated.

8. The learned Civil Judge decreeed the suit in favour of the plaintiff by restraining respondent No.5 in creating any hindrance in construction of the naali and street by the Gram Panchayat in Khasra No.680. Respondent No.5 filed an appeal aggainst the said judgment and decree dated February 20, 2016 before Addittional District Judge, Kaithal. The Appellatee Court dismissed the appeal filed by respondent No.5 on September 26, 2017. It was held that as per jamabandi, the Gram Panchayat was recorded as owner of Khasra No.680 but since the plaintiff was shown in possession of the said land and the dispute related not with regard to ownership and only with regard to constructionn of the street and drainage on both sides of the street situated in Khasraa No.680, respondent No.5/ defendant in thhe suit had no right to stop the construction work even if the plaintiff/petitiooner No.1 was in unauthorized possession of Khasra No.680. It was further observed by the learned ADJ, that in the event the plaintiff was in unauthorized possession of the Panchayat land, appropriate proceedings coould be initiated against the plaintiff to get the land of Gram Panchayat vacated from illegal encroachments.

9. It is lost upon the mind of this Court as to how reliance-upon-the decree dated February 20, 2016, passed by the Civil Judge (Junior Division) and judgment dated September 26, 2017 of the Appellate Court comes to the aid of the petitioners to demonstrrate that they are not in illegal possession of the Panchayat land.

10. Under Section 7(1) of the 1961 Act (as applicable to Haryana), any person agggrieved by illegal encroachmennt on the Panchayat land can file a petition under the same for removal off illegal encroachment on the Panchayat land. Section 7(1) of the 1961 Act is reproduced hereinafter for ready reference:

"77 Power to put Panchayat in poossession of certain lands*:-[(1)] An Assistant Collector of the first grade having juurisdiction in the village may, either suo moto or on an appplication made to him by a Paanchayat* ***or an inhabitant of the village or the Block*** *Developpment and Panchayat Officer orr Social Education and Panchhayat Officer, or any other Officer authorized by the Block Development and Panchayat Officer, after making such summaary enquiry as he may deem fit annd in accordance with such procedure as may be prescribed, eject any person who is in wrongful or unauthorised possession off the land or other immovable prroperty in the shamilat deh of thhat village which vests or is deemmed to have been vested in the paanchayat under this Act and putt the panchayat in possession thhereof and for so doing the Asssistant Collector of the first grrade may exercise the powers of a revenue court in relation to thhe execution of a decree*

for possession of land under the Punjab Tenancy Act, 1887:

Provided that if in any such proceedings the question of tittle is raised and proved prima faacie on the basis of documents thhat the question of title is reeally involved, the Assistant Collector of the first grade shall record a finding to that effect annd first decide the question of title in the manner laid down heereinafter."

[Emphasis Supplied]

11. Therefore, this Court cannot acccept the argument of learned counsel for the petitioners that respondent Noo.5 had no locus standi to file an applicationn under Section 7(2) of the 1961 Act for eviction of the petitioners from the Panchayat land.

12. Next it was vehemently argued onn behalf of the petitioners that the impugned order dated November 20, 2020 has been passed by Assistant Collector 1st Grade (AC) in breach of princiiples of natural justice as the hearing was concluded even though the parties were unrepresented due to COVID-19 pandemic. The AC relied on the jamabandi for the year 2010-11 to come to thee finding that Khasra numbers in dispute were owned by the 'Gram Panchayat deh'. Furthermore, as peer demarcation report dated January 20, 20016, the petitioners were in illeegal possession of the land in the above menntioned khasra numbers. Therefoore, the Assistant Collector 1st Grade (AC) evicted the petitioners from the disputed land after imposing Rs.10,000/- peer hectare per year as penalty from the date of filing of the application till the date of removal of the illegaal encroachment.

13. Challenging the impugned order dated November 18/20, 2020 the petitioners filed an appeal on February 22, 2021 before the Collector, Kaithal. The Collector heard both the parties before passing the detailed order dated March 29, 2022. It was argued onn behalf of the petitioners that Khasra No.690 was reserved for animal housse/warra during consolidation and not reservved for construction of a street. The said land was bought by petitioner No.1 from allottees and the same didd not fall within the definition of 'shamlat deh'. Similarly, the house built in Khasra No.680 by petitioner No.1 was donee after getting demarcation done on October 29, 2015 with the consent of the existing Gram Panchayat and therefore, there was no illegal encroachment on the same. Furthermore, theree was no illegal encroachment in Khasra No.694 as the same is lying vacant and not used for common purpose. The fence/warra of petitioners No.2 and 3 is adjoining the land situated in Khasra No.168 and their house had been constructed after getting the demarcation conducted with the consent of existing Gram Panchayat. Hence, the question of illegal encrooachment by them did not and could not arisee.

14. After considering the arguments of the parties, the Collector came to the fiinding that the land in Khasra No.168 was reserved for gair mumkin raasta, as per the consolidation scheme. The land in Khasra Nos.680 and 690 was reserved for constructioon of streets. In jamabandi for the year 2010-11, Gram ‘Panchayat deh' was mentioned as owner in the ownership column and therefore, the said land being reserved for common purposes in the consolidation scheme, falls unnder the definition of 'shamlat deh' and is vessted in the Gram Panchayat. Therefore, the

Collector correctly held that the apppeal was devoid of any merit annd the same was dismissed.

15. The learned Divisional Commissioner, after hearing learned counsel for thee parties and examining the reveenue records on the file, came to the finding that no error of any kind was coommitted by the Courts below in passing of the impugned orders. As per the demarcation report dated January 22, 20016, the petitioners were in illegaal possession of the Panchayat land which waas reserved for public path and public use. It was also noted that several opportunities were given by the Collector while hearing the appeal to the petitioners for proving their leegitimate possession over the land in disputee but the same could not be proveed by the petitioners.

16. Since the petitioners were adequately heard and several opportunities were given to them to prove theiir ownership by the Collector, they cannot bee permitted to argue that due to lack of opportunity of hearing by the AC 1st Grade all the impugned orders arre vitiated and liable to be set-aside. No prejjudice could be shown on the part of the petitioners by not being able to appear before the AC 1st Grade as full opportunity of hearing was granted by the Collector as well as the Divisional Commissioner specifically when the petitioners were unable to bring on record any document conttradicting the revenue records/coonsolidation scheme.

17. It is trite law that it is not necesssary to strike down the action and refer the matter to the authorities to take fresh decision after complying with the proceedural requirement, in cases whhere non-grant of hearing has not caused any prejudice to the person againnst whom the action is taken. Therefore, eveery violation of a facet of natural justice may not lead to the conclusion thaat the orders passed are null and void. The validity of order has to be decided on the touchstone of 'prejudice'. The view of this Court finds support in the judgment of Apex Court in 'Dharampal Satyapal Limited v. Deputy Commissioner of Central Excise, Gauhati and others" reported in (2015) 8 Supreme Court Cases 519. The relevant extract is as follows:

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355. From the aforesaid discusssion, it becomes clear that the oppportunity to provide hearing beefore making any decision was coonsidered to be a basic requiremment in the court proceeding. Laater on, this principle was applied to other quasi-judicial auuthorities and other tribunals annd ultimately it is now clearly laaid down that even in the admiinistrative actions, where the deecision of the authority may reesult in civil consequences, a heearing before taking a decision is necessary. It was, thus, obbserved in A.K. Kraipak case thhat if the purpose of rules of naatural justice is to prevent miscaarriage of justice, one fails to seee how these rules should not be made available to addministrative inquiries. In Maneeka Gandhi v. Union of India allso the application of principle of natural justice was exxtended to the administrative action of the State and its auuthorities. It is, thus, clear thhat before taking an action, seervice of notice and giving of hearing to the noticee is reequired. In Maharashtra State Financial Corpn. v. Suvarna Board Mills, this aspect was explained in the following manner:

"3. It has been contendded before us by the learned counsel for the appellannt that principles of natural justice were satisfied before taking action under Section 29, assuming that it was

necessary to do so. Let it be seen whether it waas so. It is well settled that natural justice cannot be placed in a straitjacket; its rules are not embodied and they do vary from case to case and from one fact-situation to another. All that has to be seen is that no adverse civil consequences are allowed to ensue before one is put on notice that the consequence would followw if he would not take care of the lapse, because of which the action as made known is contemplated. No partticular form of notice is the demand of law. All will depend on facts and circumstances of the case."

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388. But that is not the end of the matter. While the law on thhe principle of audi alteram paartem has progressed in the manner mentioned above, at the same time, the courts have allso repeatedly remarked that thee principles of natural justice arre very flexible principles. Theey cannot be applied in any straitjacket formula. It all depends upon the kind of functions peerformed and to the extent to which a person is likely to be afffected. For this reason, certainn exceptions to the aforesaid prrinciples have been invoked under certain circumstances. For exxample, the courts have held that it would be sufficient to alllow a person to make a representation and oral hearing may noot be necessary in all casess, though in some matters, deepending upon the nature of thhe case, not only full-fledged orral hearing but even cross-examination of witnesses is treated ass a necessary concomitant of thee principles of natural justice. Liikewise, in service matters relating to major punishment by way of disciplinary action, the requirement is very strict and fuull-fledged opportunity is envisaged under the statutory rules ass well. On the other hand, in thhose cases where there is an addmission of charge, even when no such formal inquiry is held, thhe punishment based on such admmission is upheld. It is for this reeason, in certain circumstances, even post-decisional hearing is held to be permissible. Furtheer, the courts have held that unnder certain circumstances prinnciples of natural justice may evven be excluded by reason of diverse factors like time, place, thhe apprehended danger and so on.

39. We are not concerned withh these aspects in the present caase as the issue relates to givving of notice before taking acction. While emphasising that the principles of natural justice caannot be applied in straitjaccket formula, the aforesaid innstances are given. We have hiighlighted the jurisprudential baasis of adhering to the principles of natural justice which are grrounded on the doctrine of procedural fairness, accuracy of ouutcome leading to general soccial goals, etc. Nevertheless, thhere may be situations whereiin for some reason-perhaps beecause the evidence against thee individual is thought to be uttterly compelling it is felt that a fair hearing "would make no diifference" meaning that a heaaring would not change the ulltimate conclusion reached by the decision-maker-then no legal duty to supply a hearing arises. Such an approach was enndorsed by Lord Wilberforce in Malloch v. Aberdeen Corpn., who said that:

"... A breach of proceduure... cannot give [rise to] a remedy in the courts, unless behind it there is something of substance which has been lost by the failure. The court does noot act in vain."

Relying on these comments, Brandon L.J. opined in Cinnamond v. British Airports Authority that:

"...no one can complaain of not being given an opportunity to make representations if such an opportunity would have availed him nothing."

In such situations, fair procedurees appear to serve no purpose since the "right" result can be seccured without according such treatment to the individual.

400. In this behalf, we need too notice one other exception which has been carved out to thhe aforesaid principle by the coourts. Even if it is found by the court that there is a violation off principles of natural justice, the courts have held that it may noot be necessary to strike down thhe action and refer the matter baack to the authorities to take frresh decision after complying with the procedural requirement in those cases where non-grrant of hearing has not caused any prejudice to the person aggainst whom the action is taken. Therefore, every violation of a facet of natural justice may noot lead to the conclusion that thhe order passed is always null and void. The validity of the orrder has to be decided on the toouchstone of ***"prejudice".*** *The ulltimate test is always the same viz. the test of prejudice or the test of fair hearing.*

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[Emphasis Supplied]

18. Inn the light of the aforesaid discusssion, this Court is of the view that the presennt petition is nothing but a frivvolous attempt to re-open the issues which have been settled by the revennue authorities by impugned orders dated November 18/20, 2020, March 29, 2022 and June 12, 2025.

The aforesaid orders passed by the revenue authorities are well reasoned, based on cogent facts and material evidence including revenue records and merit no interference.

19. Accordingly, the writ petition, being CWP No.35208 of 2025 is **dismissed**.

20. Connected application(s), if any,, shall also stand disposed of accordingly.