(1998) 07 P&H CK 0017

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 8213 of 1997

Chhankar Singh		APPELLANT
	Vs	
Joint Development Commissioner and Others		RESPONDENT

Date of Decision: July 23, 1998

Acts Referred:

- Punjab Village Common Lands (Regulation) Act, 1961 - Section 13

Citation: (1999) 121 PLR 361 : (1998) 3 RCR(Civil) 704

Hon'ble Judges: V.S. Aggarwal, J; G.C. Garg, J

Bench: Division Bench

Advocate: G.S. Nagra, for the Appellant; A.P. Manchanda, Addl. A.G. for Respondent Nos. 1 and 2, D.O. Datta and Surya Kant, for the Respondent

Final Decision: Allowed

Judgement

G.C. Garg, J.

Challenge in this petition is to the orders Annexures P4 and P6 passed by respondents 2 and 1 respectively. In fact the challenge is only to order, Annexure P4 and Order Annexure P6 is only a consequential order. By the latter order, the appeal was dismissed being not maintainable.

2. Respondent Dharam Pal moved an application against the Gram Panchayat seeking a declaration that he is owner of the land as detailed in the application and he is in possession thereof since long. Entries in the Khasra Girdawari have been wrongly recorded and the same are liable to be corrected and he be declared as owner of the land in dispute.

3. The Collector by order dated 28.1.1993 came to the conclusion that Dharam Pal is in possession for the last 20/22 years over the land in dispute and he has raised construction thereon. He thus accepted the application. It is this order which is

basically under challenge in these replies.

4. In response to notice of motion, respondents have put in appearance. Respondents 3 and 4 filed their separate replies.

5. The Collector noticed in his order that in the application moved by Dharam Pal, it was stated that the Gram Panchayat was the owner of the land in dispute and he requested the Gram Panchayat that he is in possession thereof since long and thus he be considered as its owner. The Collector also noticed that it was stated in the application that entries in the Khasra Girdawari relating to the land in dispute are wrong and the same be ordered to be corrected in his favour. The Collector on a consideration of the matter and having regard to stand of the petitioner, allowed the application of Dharam Pal as already noticed above.

6. On a consideration of the matter and after hearing learned counsel for the parties, we are of the opinion that the order dated 28.1.1993, Annexure P4 passed by the Collector is without jurisdiction. The Collector has no jurisdiction either under the Punjab Village Common Lands (Regulation) Act, 1961 or under any other provision of law whereby he has the authority to give a declaration in favour of the applicant that he is owner in possession of the land in dispute and the entries in the revenue record are liable to be corrected. It is only under the Punjab Village Common Lands (Regulation) Act, 1961 that the Collector has jurisdiction to pronounce on the question whether the land has or had not vested in the Gram Panchayat and the jurisdiction of the civil Court in that behalf has been ousted. However, an individual cannot seek declaration from the Collector that he is owner in possession of the land. In our opinion the order Annexure P4 is wholly without jurisdiction. Learned counsel for the respondent-applicant could not bring to our notice any provision of law authorising the Collector to entertain an application of the type moved by Dharam Pal or that the Collector had jurisdiction to pronounce thereon and to grant declaration in his favour.

7. For the reasons stated above, this writ petition is allowed and the order dated 28.1.1993, Annexure P4 is quashed. No costs.