

(1998) 05 P&H CK 0026

High Court Of Punjab And Haryana At Chandigarh**Case No:** Civil Writ Petition No. 3646 of 1997

Baldev Singh

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision: May 28, 1998**Acts Referred:**

- East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 - Section 42

Citation: (1998) 120 PLR 785 : (1998) 3 RCR(Civil) 293 : (1999) 1 RCR(Civil) 360**Hon'ble Judges:** G.C. Garg, J; B. Rai, J**Bench:** Division Bench**Advocate:** T.P. Singh, for the Appellant; G.S. Cheema, D.A.G. for Respondent Nos. 1 and 2 and G.S. Nagar, for the Respondent**Final Decision:** Dismissed

Judgement

B. Rai, J.

This petition under Articles 226/227 of the Constitution of India has been filed with a prayer to issue a writ in the nature of certiorari quashing the order dated 31.3.1995 Annexure P-4 by Deputy Commissioner- cum-District Collector, Kapurthala and order dated 26.4.1996 Annexure P5 passed by the Joint Development Commissioner (IRD) Punjab ignoring the order dated 2.11.1995 Annexure P1 passed by Additional Director Consolidation of Holdings, Punjab, Jalandhar.

2. Facts of the case are that the land in dispute is comprised in Khewat Khatauni No. 130/213, Khasra No. 173(3-10), 174(6-0), 181(3-4), 182(6-0), 183(6-2). The case of the petitioner is that prior to consolidation the land in dispute was described as Shamlat Deh Hasab Rasad Khewat in the revenue record. During the consolidation some land was used for common purposes and the remaining was shown as Shamlat Deh Hasab Rasad Khewat. The land in question was Banjar. The petitioner spent huge amount on its development and made the same cultivable. He is in possession of

the land in dispute prior to 1950 and the Gram Panchayat has no right or concern with the land in dispute. The land in dispute vests in the petitioner and the Central Government. Petitioner filed an application u/s 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (hereinafter referred to as the Act) before the Additional Director Consolidation of Holdings Punjab with a prayer that the land in question be shown as the ownership of the petitioner or that of the Central Government and that he be also shown in possession of the land in dispute. His case further is that in the column of cultivation land is described as Makbooja Malkan, as such right-holders are recorded to be in possession of the land and Gram Panchayat has nothing to do with it. That petition was accepted by the Additional Director, Consolidation of Holdings vide his order dated 2.11.1995 Annexure P-1 and remanded the case to the Consolidation Officer with the directions that he should thoroughly scrutinise the record and determine the shares of local Malkans and that of Central Government and accordingly correct the entries in the revenue record. It is further pleaded that the petitioner who is tenant on the Khasra Number mentioned in the record should be shown as such in respect of the share of Central Government.

3. In response to the notice of motion, Gram Panchayat respondent No. 3 has contested the claim of the petitioner by filing a written statement. Apart from the preliminary objections, the case of the Gram Panchayat is that the petitioner had taken the land on lease from the Gram Panchayat. After the expiry of the lease period, he did not surrender the possession back to the Gram Panchayat. It is specific case of respondent No. 3 that the petitioner has not brought any document on record to show that he is in possession of the land in question before 1950. As regards the averments regarding the order of the Additional Director Consolidation dated 2.11.1995 Annexure P-1 that has already been set aside in CWP No. 804 of 1996 decided on 17.1.1997, since reported as 1998 2 119 P.L.R. 631 Annexure R3/1.

4. We have heard the learned counsel for the parties and perused the record.

5. At the outset, we are of the view that after the decision by the consolidation authorities, the consolidation authorities have no right to go into the question of title or to effect the partition determining the shares of the parties in the land which is sought to be done by passing order dated 2.11.1995 Annexure P1. Therefore, the order dated 2.11.1995 is not sustainable in the eyes of law. Baldev Singh, petitioner filed an application u/s 42 of the Act before the Additional Director, Consolidation of Holdings, who accepted the same and remanded the case vide order dated 2.11.1995 Annexure P1 with the direction that "he should thoroughly scrutinise the record to determine the shares of local Malkans and that of Central Government and accordingly correct the entries in the revenue record. The petitioner who is tenant on the number Khasra mentioned in the record should remain as such under the share of the Government". That decision was challenged by the Gram Panchayat in CWP No. 804 of 1996. Baldev Singh also filed CWP No. 8609 of 1996, titled as

Baldev Singh v. Gram Panchayat Billpur and Ors. Both these petitions were heard and decided together. The Division Bench took note of the decision of the Division Bench of this Court in Inder Singh and Anr. v. State of Punjab and Ors. 1987 P.L.J. 614 and held that since the petitioner was Chakotedar under the Gram Panchayat and had taken possession from the Gram Panchayat, he is estopped from denying the title of the Gram Panchayat and set up title in himself or in anybody else. He can deny the title of the Gram Panchayat and can set up title himself or in somebody else only after he surrenders the possession to the Gram Panchayat. In this view of the matter, CWP 804 of 1996 was allowed whereas CWP 8609 of 1996 dismissed vide order dated 17.1.1997: 1998 2 119 P.L.R. 631.

6. It is well known that once a tenant always a tenant. Once a person is found to be a tenant, he has no right to throw a challenge to the title of his landlord. If the tenancy is for a fixed period, it terminates automatically on the expiry of the lease period and the person in possession become unauthorised occupant. After expiry of the lease period, the lessee has no right to continue in possession of the property in question and is liable to be thrown out of it. In this regard, reference may also be made to another decision of the Division Bench of this Court in Jarnail Singh v. The Joint Development Commissioner (IRD) Punjab and Anr. 1996 P.L.J. 650. Therefore, the order dated 2.11.1995 Annexure P1 no more ensures to the benefit of the petitioner. The contention of the learned counsel for the petitioner that he has filed SLP in the Hon"ble Supreme Court of India on 19.11.1997, against the decision dated 17.1.1997 Annexure P-7-R3/1 is of no help to the petitioner. It is not the case that the SLP has been admitted and operation of the judgment Annexure P7-R3/1 has been stayed. Therefore, mere filing of SLP is not of any consequence. Without going into the other aspects of the case, we, therefore, are of the view that the petitioner has been found to be a tenant on the land in question and he has no right to claim title to the property and after the expiry of the lease period, he has become unauthorised occupant of the land in dispute and cannot be allowed to retain the possession thereof. Nothing has been brought on record to show that the petitioner is paying the rent to the Gram Panchayat. Baldev Singh is filing the petitions one after the other with an oblique motive to retain the possession unauthorisedly without paying rent of the land in dispute causing loss to the Gram Panchayat.

7. For the reasons recorded above, we find no merit in this petition and the same is dismissed with costs. Costs are assessed at Rs. 1000/-.