

(2013) 07 P&H CK 0811

High Court Of Punjab And Haryana At Chandigarh**Case No:** CWP No. 2503 of 1985

Bakshi

APPELLANT

Vs

The Joint Director and Others

RESPONDENT

Date of Decision: July 29, 2013**Acts Referred:**

- Punjab Package Deal Properties (disposal) Act, 1976 - Section 10
- Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 - Section 7

Hon'ble Judges: Satish Kumar Mittal, J**Bench:** Single Bench**Advocate:** Mohd. Yousaf, for the Appellant; Ravish Bansal, Advocate, for the Respondent**Final Decision:** Allowed

Judgement

Satish Kumar Mittal, J.

In the present writ petition, the petitioner (now deceased) had challenged the order dated 30.7.1982 (Annexure P-1) passed by the District Development Panchayat Officer-cum-Collector, Jalandhar (respondent No. 2 herein), under the Punjab Public Premises (Eviction and Rent Recovery) Act, 1973 (hereinafter referred to as "the Act") as well as order dated 12.10.1984 (Annexure P-2) whereby the appeal filed by the petitioner was dismissed by the Joint Director Panchayats Punjab, (Exercising the Powers of Commissioner) (respondent No. 1 herein). The aforesaid eviction order was passed by the Collector on an application moved by the Gram Panchayat u/s 7 of the Act on the allegation that the petitioner was in illegal and unauthorised possession of the Gram Panchayat land. The Collector, on the basis of the entry made in the revenue record where the Gram Panchayat was recorded as owner of the land in dispute, ordered eviction of the petitioner, whereas according to the Jamabandi for the year 1976-77 the Gram Panchayat has been recorded as owner of the land in question and in Column No. 5, the Central Government has been recorded in possession as muafidar. The claim of the petitioner is that he was in possession of the land in question as rent free tenant and as muafidar under the

Central Government. This position is reflected in the subsequent Jamabandi. This fact has not been disputed by learned counsel for respondent No. 3. It is further not disputed that during the pendency of this writ petition, the Central Government has executed a conveyance deed in favour of the petitioner, copy of which has been placed on record as Annexure A-1, vide C.M. No. 14145 of 2010. The petitioner has also placed on record copy of the order (Annexure A-2) passed in May, 1991 by the Deputy Commissioner-cum-Chief Sales Commissioner, Jalandhar. The said order was passed on suo-motu reference made by the Rehabilitation Department u/s 10 of the Punjab Package Deal Properties (Disposal) Act, seeking setting aside of the transfer of land measuring 6 Kanals 17 Marlas, including the land in dispute, which was transferred by the Rehabilitation Department in favour of the petitioner vide the aforesaid conveyance deed. The said reference was declined and transfer of the land in dispute in favour of the petitioner was held to be valid. The said order was never challenged by the Gram Panchayat and it became final. In the light of the aforesaid orders and execution of the conveyance deed by the Rehabilitation Department in favour of the petitioner, his possession on the land in question cannot be said to illegal or unauthorised and no eviction of such person can be ordered by the Collector u/s 7 of the Act.

2. A similar writ petition (CWP No. 2560 of 1985) filed by one Gurbaksh Singh was allowed by this Court vide order dated 20.11.2012. The facts of this case are identical similar to the said petition. Learned counsel for respondent No. 3 could not point out any difference between the said petition and the instant petition.

3. In view of the above, this writ petition is allowed and the impugned orders dated 30.7.1982 (Annexure P-1) and 12.10.1984 (Annexure P-2) are set aside. However, it will be open for the Gram Panchayat - respondent No. 3 to establish its title by filing title suit with possession before the competent authority under the Punjab Village Common Lands (Regulation) Act, 1961.