

(2001) 01 P&H CK 0218

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 7027 of 1999

Gram Panchayat Pandori
Waraich

APPELLANT

Vs

The Joint Development
Commissioner, IRD Punjab

RESPONDENT

Date of Decision: Jan. 19, 2001

Acts Referred:

- Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 - Section 4, 5
- Punjab Village Common Lands (Regulation) Act, 1961 - Section 7

Citation: (2001) 4 RCR(Civil) 736

Hon'ble Judges: N.K. Sud, J; Jawahar Lal Gupta, J

Bench: Division Bench

Advocate: J.S. Gill, for the Appellant; M.C. Berry, D.A.G. and Arun Jain, for the Respondent

Final Decision: Dismissed

Judgement

Jawahar Lal Gupta, J.

The petitioner Gram Panchayat filed a petition u/s 7 of the Punjab Village Common Lands (Regulation) Act, 1961 against respondents No. 3 to 6. It claimed that they were in unauthorised occupation of land measuring 47 kanals 17 marlas. The petition was allowed vide order dated February 21, 1991 by the District Development and Panchayat Officer (exercising the powers of the Collector). Fairly lengthy litigation ensued. Ultimately, under the directions of this Court, the case was remanded for a fresh decision. Vide order dated May 22, 1998, the Joint Development Commissioner (exercising the powers of the Commissioner) accepted the appeal and dismissed the petition filed by the Gram Panchayat. A copy of this order has been produced as Annexure P5 with the writ petition. The petition alleges that the respondents No. 3 to 6 are in unauthorised occupation and prays that the impugned order be quashed.

2. A reply has been filed, controverting the claim made by the petitioner.
3. Counsel for the parties have been heard.
4. Mr. Gill contends that the respondents have no right or title in the property in dispute. Their possession is unauthorised. The Commissioner has erred in accepting the appeal and dismissing the petition filed by the petitioner.
5. On the other hand, Mr. Arun Jain appearing for respondents No. 3 to 6 submits that the petitioner are owners in possession. The sale-deeds, vide which the land has been purchased, were duly produced. It is on examination of the matter that the case has been decided. No ground for interference with the order is made out.
6. There is a slight confusion with regard to the provision under which the proceedings had been initiated. In the order passed by the Collector (a copy of which has been produced as Annexure P1), it has been mentioned that the petition is under the provisions of Section 4 and 5 of the Public Premises and Land (Eviction and Rent Recovery) Act, 1973 and the Punjab Gram Panchayat (Common Purposes Land) Act. However, counsel for the parties are agreed that the petition had been actually filed under the Punjab Village Common Lands (Regulation) Act, 1961.
7. Irrespective of that, a perusal of the order passed by the Commissioner shows that a clear finding of fact that the Gram Panchayat has no right over the land has been recorded . It has been specifically found that the land in dispute had been purchased vide sale-deeds dated June 23, 1981, June 14, 1982 and the various other documents. Still further, all the nine sale-deeds are duly registered. It has also been observed that the sale deeds are "prior to 13.6.1987. The Gram panchayat had never challenged these registered sale deeds". Nothing has been pointed out to show that this findings is incorrect.
8. When the matter was posted before this Bench on November 8, 2000, the case was adjourned to enable the counsel for the petitioner to ascertain the factual position with regard to the sale-deeds. He has today stated before us that the Gram Panchayat had never challenged the validity of the registered sale-deeds. Resultantly, we find no infirmity in the findings of fact recorded by the Commissioner.
9. Despite the above, Mr. Gill has contended that the Panchayat has been giving the land on lease. Copies of the receipts have been produced as Annexures P6, P6/A and P6/B on the record. We have examined these three documents, which related to the years 1995 and 1996. No particulars of the land have been given. There is nothing to show that the land in dispute had been given on lease by the Panchayat to any one out of respondents No. 3 to 6. In this situation, we cannot upset the findings recorded by the Commissioner on the basis of these documents.
10. No other point has been raised.

11. In view of the above, we find no merit in the writ petition. It is consequently dismissed. The parties shall bear their own costs.

12. Petition dismissed.