

(2001) 05 P&H CK 0190

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 6423 of 2001

Ajaib Singh and another

APPELLANT

Vs

The Gram Panchayat of Village
Khanpur and others

RESPONDENT

Date of Decision: May 11, 2001

Citation: (2002) 3 RCR(Civil) 293

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

Bench: Division Bench

Advocate: A.K. Walia, for the Appellant;

Final Decision: Dismissed

Judgement

Jawahar Lal Gupta, J.

The Petitioner prays that a writ in the nature of certiorari be issued quashing the application dated October 11, 1993 and the order of eviction passed by the authority on July 29, 1994. Copies of these two documents have been placed on record as Annexure P-2 and P-3 respectively. A few facts as relevant for the decision of this case may be briefly noticed.

2. The Petitioners allege that their father-Gurdial Singh was given a piece of land measuring 2 Bighas at a yearly rent of Rs. 55/-. They had established a flour mill on this land. They have also set up other industrial units. In January 1988 the lease-expired. The Petitioners failed to vacate the land. The Respondent-Gram Panchayat initiated proceedings for their eviction under the provisions of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act. 1973. This application was presented before the Authority on October 11, 1993. A copy has been produced as Annexure P-2 with the writ petition. This application was allowed vide order dated July 29, 1994. A copy of the order is at Annexure P-3 with the writ petition. The Petitioners filed an appeal against the order before the Commissioner. Vide order dated October 10, 1996, the appeal was partially allowed. A copy of this order is at Annexure P-4 with the writ petition. The appellate authority had taken the view that

the Appellants may be allowed to retain land measuring 1 Bigha bearing Khasra No. 457. The Petitioners were also allowed to cut the fruit trees standing on the land bearing Khasra No. 455.

The Petitioners did not challenge this order. However, the Respondent-Gram Panchayat had approached this Court through C.W.P. No. 7121 of 1997. The Petitioners were impleaded as Respondents No. 2 and 3. They were served. After hearing counsel for the parties, the Bench observed that "the land in dispute belongs to Gram Panchayat. The land was given to the present Petitioner "on lease for a period of 20 years." It was further held that "their occupation over the said land after the expiry of the lease period will be treated as unauthorised within the meaning of 1973 Act. Therefore, the Ld. Collector was right in holding that the Respondents No. 2 and 3 are not entitled to retain occupation of the public premises. In its order, the Appellant authority has not recorded a finding that the conclusion arrived at by the Collector suffered from an error of fact or error of law. He has also not recorded a finding that the premises in question do not fall within the definition of the expression public premises or that Respondent No. 2 and 3 are entitled to retain possession as of right". Thus, it was held that the order of the appellate authority was illegal. Even the plea of equity sought to be raised on behalf of the present Petitioners was rejected. Resultantly, the petition was allowed. The Petitioners were permitted to retain the land for a period of 6 months subject to their paying the lease money and filing a written undertaking to hand over vacant possession on or before May 11, 1999. Mr. Walia States that the Petitioners did not challenge this judgment before the Supreme Court. Thus, it has attained finality.

3. The Petitioners have now approached this Court through the present writ petition with the prayer that the order of the Collector as well as the petition filed by the Respondent-Gram Panchayat for their eviction be quashed. It is alleged that by operation of the provisions of the Punjab Village Common Lands (Regulation) Act, 1961, they have become the owners of the land.

4. The contention is totally untenable. Firstly, the dispute between the Petitioners and the Respondent-Gram Panchayat stands finally concluded by the aforementioned judgment of this Court in C.W.P. No. 7121 of 1997. The decision having attained finality, the decided cause cannot be re-decided. The petition is wholly incompetent and deserves to be dismissed on that short ground. Secondly, the contention as now raised was available to be Petitioners as a defence in the petition filed by the Gram Panchayat. Mr. Walia states that it was not raised. Assuming it to be so, the Petitioners are debarred from raising it now.

5. Irrespective of the above, it is clear that the Petitioners had been granted lease for a limited period of 20 years. The lease had expired on January 17, 1988. Thereafter, the Respondent-Panchayat had initiated proceedings for their eviction. The period of lease having expired, the Petitioners had no right to remain in possession of the land. They were bound to vacate it.

6. Mr. Walia contends that the proceedings were wrongly initiated under the provisions of the Public Premises Act, 1973. There is no basis for such a contention. No such plea is shown to have been raised in reply to the petition which had been filed in the year 1993, the Petitioners cannot be allowed to make out an entirely new case at this stage. The petition is wholly frivolous and cannot be entertained.

7. Mr. Walia has placed reliance on the decisions in Charan Singh and Ors. v. State of Punjab and others, 1997 (1) PLJ 188, [Hari Singh Vs. Piare Lal](#), and [Simarjet Kaur Vs. Chandigarh Administration](#), . These cases are not applicable to the facts of the case. The facts are not similar. The issues had been raised at the appropriate stage.

8. No other point has been raised.

9. In view of the above, we find no merit in this petition. It is, consequently, dismissed in limine.

Sd/- N.K. Sud, J.