

2025:PHHC:103741



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-23944-2024 (O&M)
Date of decision :13.02.2025

MANJIT KAUR

...Petitioner

Versus

JOINT DEVELOPMENT COMMISSIONER AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Saurabh Kapoor, Advocate
and Mr. Narender Kumar Rana, Advocate
for the petitioner.

HARSH BUNGER, J. [ORAL]

Petitioner- Manjit Kaur seeks setting aside of an order dated 20.03.2024 (Annexure P-1) passed by learned Joint Development Commissioner, Punjab [exercising powers under Section 9 of the Punjab Public Premises and land (Eviction and Rent Recovery) Act 1973, in short "the 1973 Act"].

2. Briefly, the petitioner is stated to have purchased the land measuring 0 Kanal – 0 Marla- 8 Sarsahi, out of 6 kanal – 0 Marla from Khata No.40/49, 41/50 comprising of Khasra No. 34//19/1/1/2(4-9), 34//19/2/2(1-11) situated at village Akalgarh, Tehsil Raikot, District Ludhiana (as per Jamabandi for the year 1996-97), vide Vasika No. 4197

dated 07.03.2003 (Annexure P-8), from one Ashok Kumar, with specified boundaries as under:-

<i>East:</i>	<i>5'-6" neighbor</i>
<i>West:</i>	<i>5'-6" passage</i>
<i>North:</i>	<i>159'-6" Avtar Singh, Ramesh Kumar, Neelam Rani</i>
<i>South:</i>	<i>159'-6" passage</i>

2.1 It is stated that earlier, petitioner's neighbour namely Sh. Ramesh Kumar filed a Civil Suit No. 744 dated 14.06.2003 before the Civil Court, challenging the sale deed of the petitioner, *inter-alia*, on the plea that there was a passage running on the southern side of his (Ramesh Kumar's) house, measuring 5'-6" X 159'-6" (shown in red color and marked 'ABCD' in site plan attached to plaint) and comprised in *Rectangle No. 34, Khasra No. 19/2/2 and 19/1/1/2*. The said suit is stated to have been dismissed vide judgment and decree dated 30.08.2014 holding that plaintiff- Sh. Ramesh Kumar has failed to establish his claim with regard to the property being a part of common passage, whereas defendant No. 2 (i.e. the present writ petitioner) succeeded in proving her ownership on the basis of sale deed dated 07.03.2003. An appeal filed by Sh. Ramesh Kumar against the aforesaid judgment and decree dated 30.08.2014 was also dismissed by the learned Additional District Judge, Ludhiana vide judgment and decree dated 30.11.2018 (Annexure P-20).

2.2 It transpires that one Sh. Surjit Singh got registered a case FIR No. 11 dated 17.02.2004 against the present petitioner, her husband and their vendor-Sh. Ashok; wherein they were convicted by the trial court vide judgment dated 23.08.2012; however on a subsequent appeal filed by

petitioner and her husband, they were acquitted by the learned Appellate Court vide judgment dated 30.11.2018 (Annexure P-14).

2.3 It is stated that Sh. Ramesh Kumar in connivance with their associate Sh. Parminder Singh and other filed a Public Interest Litigation (CWP-18851-2016), which came to be disposed of vide order dated 12.05.2016 (Annexure P-17) by observing as under:-

“...It is to be first ascertained as to whether there are encroachments and in case there are, what is the kind of common land and then apply the proper procedure for removal of the encroachment after giving an opportunity of hearing to those who are alleged to have made the encroachments.

The writ petition is accordingly disposed of.”

2.4 It appears that respondent No. 3-Gram Panchayat, NaviAbadi village Akalgarh, filed a petition under Sections 4 and 5 of the 1973 Act seeking eviction of the petitioner and her husband from land comprised in Khasra No. 34//18/1(0-3), 19/1/2(0-1) and 20/1(0-4). The said eviction petition was dismissed by the learned Collector (Panchayat Lands)-cum-District Development and Panchayat Officer, Ludhiana vide order dated 22.01.2021(Annexure P-21).

2.5 Feeling aggrieved against the order dated 22.01.2021(Annexure P-21), respondent No. 3-Gram Panchayat, NaviAbadi village Akalgarh; preferred an appeal under Section 9 of the 1973 Act, which has been allowed vide order dated 20.03.2024 (Annexure P-1) passed by learned Joint Development Commissioner, Punjab; by observing as under:-

“...These facts have been brought on record by the then Sub Divisional Magistrate, Raikot. He has sent a self-declared report to the notice of Additional Deputy Commissioner (D)

Ludhiana vide letter Endst No.1243 dated 08.06.2016. The court of District Development and Panchayat Officer, Ludhiana has mentioned about the civil suits in its order. On the perusal of the copy order of civil court order No.744 dated 14.06.2003 passed by the Hon'ble Civil Judge produced by respondent no.2 on the asking of this office and copies of vasikas produced by the respondent No.2 and 3, it came to notice that the ownership of respondent No.3 is approved at Khasra No.34//19/1/1/2 and 34//19/2/2 and they are in possession in these Khasra numbers at the site.

The appellant SamitiPatwari has stated that there is no objection regarding these Khasra numbers. Appellant has stated that the appeal has been filed regarding Khasra No.34//18/1, 34//19/1, 34//19/2/1 and 34//20/1, which are owned by the Gram Panchayat according to the revenue record and entered as GairMumkinKhal. In the revenue record, Mushteel No.30 has been corrected and changed into Mushteel No.34 in the year 2016 and no other entry has been changed. There does appear any doubt in correction of this Mushteel No.34. Mushteel No.34 is shown in the AksShajara of the year 1956-57 produced by the respondent No.2. The District Development and Panchayat Officer vide his order has dismissed the petition on reference to the civil court and it does not look good to doubt the correction of revenue record.

On examining of these all facts and according to actual position at the site, it is made out that the Khasra No.34//18/1, 34//19/1/2, 34//19/2/1 and 34//20/1 are owned by the Gram Panchayat.

It is mentioned in the Demarcation report dated 14.09.2017 that "Rajinder Singh Litt remain present during entire proceedings of demarcation but back to his house before appending his signature. He has also not appended his signature on the intimation letter. The videography of the today's proceedings has been done by me at my own level so that nobody could deny his presence during the demarcation and at the spot. So there is no weight in the plea of the

respondents that the demarcation of the suit land has been conducted by the officers against the law and have prepared a concocted demarcation report. Whereas the plea of the counsel for the appellant has weight that due to connivance of the respondent no.2 and 3 with the old Gram Panchayats, no action has been taken in this case since long. The Gram Panchayat is owner of the suit land which is reserved for common purposes of the village and is being used as passage by the residents of the nearby area. This fact has been proved from the record and the arguments put forward by the counsel for the respondents that the respondents have concealed these facts from this court that the Civil Judge, Jagron has passed the order regarding the land in dispute that Gram Panchayat is owner of the suit land. The present respondents had challenged the said order in the court of Additional District Judge, Ludhiana but their appeal has been dismissed along with cost vide order dated 26.08.1997. The present respondents had challenged the said order of District Judge, Ludhiana in the Hon'ble Punjab and Haryana High Court but the Hon'ble High Court has dismissed the Civil Revision No.3606 of 1997 vide order dated 27.01.1998. Thereafter the respondents had challenged the said order of Hon'ble High Court in the Hon'ble Supreme Court but the same has been dismissed by the Hon'ble Supreme Court vide order dated 05.04.1998. Despite all, the respondents have illegally raised the wall at the suit land in forcible manner. In this regard when a complaint was got registered on 13.07.2020 to the Station House Officer, Police Station Sudhar then police did not take any action on account of say of the respondents in the police. The respondents have respectively filed Civil Suit CS/8734/2019 titled as "Rajinder Singh LittVs State of Punjab" and CS/8735/2019 titled as "Manjit Kaur LittVs State of Punjab" to continue their illegal possession over the suit land and to continue with legal obstacles. In said suits, they have demanded the amount of Rs.7,35,77,000/- and Rs.7,60,53,500/- along with interest @ 18% per annum, it is

proved from the above that the respondent No.2 and 3 are habitual to conceal the material facts of the case so that they could continue their illegal possession over the suit land by misleading the court. The respondents have concealed material facts from the Hon'ble Court by giving reference to the order of Hon'ble Punjab and Haryana High Court and Hon'ble Supreme Court in the Court of Collector. The Collector has passed the impugned order without examining the record, perusing the true facts and without application of the judicial mind. It has proved from the report No.879 dated 30.06.2022 of sub divisional magistrate, Raikot that Gram Panchayat is owner of the land falling in Khasra No.34//18/1, 34//19/1/2, 34//19/2/1 and 34//20/1. No person has right to sell or purchase the land owned by Gram Panchayat. The respondents are fully aware of this fact that appellant Gram Panchayat is owner of the suit land which is Gair Mumkin Khal (water course) in the revenue record and such land vests in the Gram Panchayat, but in spite of that the respondent have raised illegally raised wall over this land. All the sale deed and mutations regarding above said Khasra numbers have no value in the eyes of law, thus, are null and void. Therefore the appeal of the appellants is hereby allowed by setting aside the impugned order dated 22.01.2021 passed by the court of Collector and the respondent No.2 and 3 are ordered to be evicted from the suit land.”

2.6 In the aforementioned circumstances, the present writ petition has been filed by the petitioner before this Court for seeking relief(s) as noticed here-in-above.

3. Heard.

4. In the present case, the petitioner claims to be the owner of land measuring 0 Kanal – 0 Marla- 8 Sarsahi, out of 6 kanal – 0 Marla from Khata No. 40/49, 41/50 comprising of Khasra No. 34//19/1/1/2(4-9), 34//19/2/2(1-11) situated at village Akalgarh, Tehsil Raikot, District

Ludhiana (as per Jamabandi for the year 1996-97), on the strength of sale deed bearing Vasika No. 4197 dated 07.03.2003 (Annexure P-8); whereas the impugned eviction order dated 20.03.2024 (Annexure P-1) has been passed in respect of land falling in *Khasra No. 34//18/1, 34//19/1/2, 34//19/2/1 and 34//20/1*. It is thus apparent that the land purchased by the petitioner vide sale deed bearing *Vasika No. 4197 dated 07.03.2003* (Annexure P-8) is different from the land regarding which the eviction order has been passed.

5. Keeping in view the above, the present writ petition is dismissed, however with the observation that the impugned eviction order dated 20.03.2024 (Annexure P-1) be executed only in respect of land falling in *Khasra No. 34//18/1, 34//19/1/2, 34//19/2/1 and 34//20/1*, as claimed by respondent No. 3-Gram Panchayat.

6. All pending application/s, if any, shall also stand closed.

February 13, 2025
gurpreet

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No