



In the High Court of Punjab and Haryana at Chandigarh

CWP No. 5222 of 1999 (O&M)

Reserved on: 27.2.2025

Date of Decision: 11.3.2025

Gram Panchayat Garhi Padla

.....Petitioner

Versus

Commissioner Ambala Division, Ambala and another

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE VIKAS SURI**

Argued by: Mr. Surinder Dhull, Advocate
for the petitioner.

Mr. Ankur Mittal, Addl. A.G., Haryana,
Mr. Svaneel Jaswal, Addl. A.G., Haryana,
Mr. Pardeep Prakash Chahar, Sr. DAG, Haryana,
Mr. Saurabh Mago, DAG, Haryana,
Mr. Gaurav Bansal, DAG Haryana and
Mr. Karan Jindal, AAG, Haryana.

Mr. H.S.Kasan, Advocate
for respondent No. 2.

SURESHWAR THAKUR, J.

1. Through the instant writ petition, the petitioner seeks the quashing of the order dated 17.11.1998 (Annexure P-2) passed by respondent No. 1, whereby the revision petition filed by the respondent No. 2 against the order dated 15.11.1996, passed by the Assistant Collector concerned, was allowed and the order supra became set aside.

Brief facts of the case

2. It is averred in the instant petition, that since respondent No. 2 was in illegal and unauthorized occupation of the land belonging to the Gram Panchayat concerned, therefore, the Gram Panchayat concerned, filed



a petition under Section 7(2) of the Punjab Village Common Lands (Regulation) Act, 1961 (for short 'the Act of 1961), thus seeking the eviction of respondent No.2 from the petition land. After due service of notice upon respondent No. 2, and, after hearing his objections, respondent No. 2 was ordered to be evicted from the petition land on 9.4.1985. It is further averred in the instant petition, that owing to some unavoidable circumstances and collusion of respondent No. 2 with the Gram Panchayat concerned, the apposite execution petition was filed in the year 1995. Moreover since, the possession of the petition land rather had already been taken by the Gram Panchayat concerned, thereby the Executing Court, did not proceed to issue warrants of possession vis-a-vis the disputed lands, rather through an order becoming rendered on 15.11.1996, it ordered that the file be consigned to the record room.

3. Being aggrieved from the order (supra), respondent No. 2 preferred a revision petition under Section 13 of the Act of 1961. Vide the impugned order dated 17.11.1998 (Annexure P-2), the said revision petition was allowed and the order dated 15.11.1996, passed by the Assistant Collector concerned, thus was set aside. The operative part of the said order becomes extracted hereinafter.

“I have gone through Section of Village Common Land Act from which it is clear that for execution purposes it is same as in Punjab Tenancy Act PLJ 1997(2) (F.C.Pb) page 60, speaks about application of Article 137 of Limitation Act for execution in Punjab Tenancy Act. According to which limitation is 3 years for execution. In this case Article 64 does not applies and in such situation execution petition of the applicant is allowed and order passed by lower court is set aside. Order pronounced.”



4. Moreover, the provisions, as carried in Article 136 of the Limitation Act also become extracted hereinafter.

*136. For the execution of any decree (other than a decree granting a mandatory injunction) or order of any civil court. Twelve years. When the decree or order becomes enforceable or where the decree or any subsequent order directs any payment of money or the delivery of any property to be made at a certain date or at recurring periods, when default in making the payment or delivery in respect of which execution is sought, takes place:
Provided that an application for the enforcement or execution of a decree granting a perpetual injunction shall not be subject to any period of limitation.*

5. *Ex facie*, the supra extracted provision makes a prescription therein, that the ordained period of limitation rather for enforcing or executing a order/decreed of possession, thus is 12 years. The said ordained period of 12 years is to be computed from the date when the appositely passed decree/order becomes enforceable. The enforceability of the appositely passed decree or order would take place when the such passed decree or order acquires a binding and conclusive effect.

6. The conundrum before this Court is whether the supra provisions are applicable to an order passed by the Assistant Collector concerned, through his exercising jurisdiction under Section 7 of the Act of 1961.

Submissions on behalf of the learned counsel for the petitioner

7. The learned counsel for the petitioner submits-

(i) That while passing the impugned order, the learned



Commissioner concerned, has wrongly interpreted and applied Article 137 of the Limitation Act, thus for the purpose of computation of the period of limitation for the filing of an execution application against the order of eviction.

(ii) That the Punjab Tenancy Act, 1887 (for short '*the Act of 1887*') does not speak, about any limitation for the filing of an execution petition against the decree/order of possession, whereas, Section 7 of the Act of 1961, deals with the encroachments made by the residents of the village over the panchayat lands. Since there is a basic difference between the aims and objectives of the Punjab Tenancy Act and the Act of 1961, therefore, the view taken by the respondent concerned, while passing the impugned order, is against the intent of Act of 1961, as such, the Act of 1887 is not applicable in the instant case.

(iii) That the order passed under Section 7 of the Act of 1961 amounts to a decree, therefore, Article 136 of the Limitation Act is applicable in the instant case rather than Article 137 of the Limitation Act.

Submissions on behalf of the learned counsel for respondent No. 2.

8. The learned counsel for respondent No. 2 submits, that there was no collusion between the Gram Panchayat concerned, and, the respondent No. 2. He further submits, that the execution application was filed in the year 1995 i.e. after an elapse of 10 years, since the passing of the order upon the petition filed under Section 7 of the Act of 1961. The learned counsel further submits, that the order passed by the learned Assistant Collector concerned, was wrong and illegal, as the limitation provided under Section 137 of the Limitation Act, thus for seeking execution of the order of eviction, rather is only three years. Therefore, it is prayed that the impugned



order be upheld.

Inferences of this Court

9. For the reasons to be assigned hereinafter, the instant writ petition is allowed, and, the impugned order (Annexure P-2) is quashed and set aside.

10. Ex facie, Article 136 of the Limitation Act appertains to the period of limitation for seeking execution of a decree passed by a Civil Court of competent jurisdiction. Therefore, at the very threshold, unless a binding and conclusive verdict of eviction, became passed by the Assistant Collector concerned, through his exercising jurisdiction under Section 7 of the Act of 1961, provisions whereof become extracted hereinafter, besides when the said passed order becomes statutorily categorically declared to be equivalent to a decree rendered by a Civil Court of competent jurisdiction, thereupons, thus the prescribed period of limitation envisaged in Article 136 of the Limitation Act would be applicable.

“7. Power to put panchayats in possession of lands vested or deemed to have been vested in it.

(1) An Assistant Collector of the first grade having jurisdiction in the village shall on an application made to him by a Panchayat, after making such summary enquiry as he may think fit and in accordance with such procedure as may be prescribed, put the Panchayat in possession of the land or other immovable property in the shamilat deh of that village which vests or is deemed to have been vested in it under this Act and for so doing the Assistant Collector may exercise the powers of a revenue court in relation to the execution of a decree for possession of land under the Punjab Tenancy Act, 1887.

(2) An Assistant Collector of the first grade having jurisdiction in the village may, either suo motu or on an application made to him by a Panchayat or an inhabitant of the village eject in the manner and in accordance with the procedure referred to in sub-section (1), any person who is in wrongful or unauthorised possession of any land or other immovable property in the shamilat deh of that village which vests or is deemed to have been vested in the Panchayat under this Act.



(3) An appeal against the order of the Assistant Collector shall lie to the Collector.

(4) An appeal against the appellate order of the Collector shall lie to the Commissioner.

(5) The period of limitation for an appeal under sub-section (2) and (3) shall run from the date of the order appealed against, and shall be-

(a) thirty days, when the appeal lies to the Collector; and

(b) sixty days, when the appeal lies to the Commissioner.”

11. However, though a reading of the hereinabove extracted mandate, as enclosed in Section 7 of the Act of 1961, thus does not categorically declare, that the order passed by the Assistant Collector concerned, under Section 7 of the Act, thus is to be executed in a manner alike to the execution of a decree, as becomes passed by a Civil Court of competent jurisdiction. If so, since there is no impartings to an order of eviction passed under the supra provisions, thus the pedestal of a decree rendered by a Civil Court of competent jurisdiction, nor therebys when the period of limitation prescribed in the supra extracted Article, thus comes to the forefront, naturally nor therebys the said Article was required to be enforced against the claim of the present petitioner/decreed holder.

12. Tritely, yet since it has been specifically mentioned in the supra extracted provisions, as carried in Section 7 of the Act of 1961, that after the passing of an order of eviction against the encroachers upon the shamlat deh lands, thus by the Assistant Collector concerned, the latter is required to be ensuring the delivery of encumbrance free possession of the encroached upon lands, to the Gram Panchayat concerned. Moreover, when it becomes also stated therein, that in the makings of delivery of encumbrance free possession of the encroached upon lands, to the Gram Panchayat concerned, rather the Assistant Collector concerned, is invested, thus the powers of a Revenue Court, as are so exercised by the Revenue Court concerned, in relation to the



execution of a decree of possession, as passed under the Act of 1887.

13. Consequently, it has to be discerned from a reading of the relevant provisions, as embodied in Section 88 of the Act of 1887, provisions whereof become extracted hereinafter, whether thereins occur such provisions whereby the Revenue Court, can proceed to make execution of an order/decreed of possession, as becomes passed under the Act of 1887, thus in a manner alike to the envisagings made in the Code of Civil Procedure. If so, resultantly, an order of eviction passed by the Assistant Collector thus can, as such, be also said to be subjected obviously to the relevant thereto periods of limitation, as prescribed in the Limitation Act.

“88. Procedure of Revenue-Courts.—

(1) *The Local Government may, with the previous sanction of the Governor General in Council, make rules consistent with this Act for regulating the procedure of Revenue Courts in matters under this Act for which a procedure is not prescribed thereby, and may by any such rule direct that any provisions of the Code of Civil Procedure shall apply with or without modification to all or any classes of cases before those Courts.*

(2) *Until rules are made under sub-section (1), and subject to those rules when made and to the provisions of this Act,—*

(a) the Code of Civil Procedure shall, so far as it is applicable, apply to all proceedings in Revenue Courts whether before or after decree; and

(b) the Financial Commissioner shall, in respect of those proceedings be deemed to be the High Court within the meaning of that Code, and shall, subject to the provisions of this Act, exercise, as regards the Courts under his control, all the powers of a High Court under the Code.”

14. However, a closest reading of the supra extracted provisions, as carried in Section 88 of the Act of 1887, especially of sub-Section (1) thereof, rather does not make any categorical envisaging thereins, that therebys any period of limitation has been prescribed, thus for enforcing an order eviction passed under Section 7 of the Act of 1961.

15. Moreover when yet thereins, becomes bestowed an



empowerment in the State Government, to make such rules, as are consistent with the Act of 1887, rather for regulating the procedure of the Revenue Courts, in the matters covered under the said Act in respect whereof no procedure is prescribed. Furthermore, since an envisaging is also made therein, that such framed rules may also direct, that any of the provisions of the Civil Procedure Code, shall apply with or without modification to all or any classes of cases before those Courts. In addition, since sub-Section (2) of Section 88 of the Act of 1887, states that until the rules in terms of sub-Section (1) become formulated, thereupto the provisions of CPC shall, sofar as it is applicable, thus apply to all proceedings in Revenue Courts whether before or after decree.

16. Now since the learned State counsel has fairly stated, at the bar, that no rules in terms of sub-Section (1) of Section 88 of the Act of 1887 become formulated, thereupons the envisagings in sub-Section (2) of Section 88 of the Act of 1887, that until such rules are formulated, therebys, the provisions of CPC, insofar as it is applicable, thus shall apply to the proceedings in Revenue Courts, besides with further envisagings that the procedural regimen, as embodied therein is to be so applied before or after the passing of the decree, thus do become the relevant governing regimen.

17. Therefore therebys, when obviously the mandates enclosed in Order 21 of the CPC but become the regimen, thus appertaining to the execution of decrees passed by the Civil Courts, besides when the said regimen is made applicable to the proceedings drawn under the Act of 1887, provisions whereof, rather are declared in Section 7 of the Act of 1961, to be applicable for enforcing an order of eviction, as becomes passed by the Assistant Collector concerned. In sequel, the order(s) passed under Section



7 of the Act of 1961, are deemed to be decree(s), and, as such are enforceable as a decree rendered by the Civil Court.

18. Consequently, when vis-a-vis the execution or enforcement of a decree passed by a Civil Court of competent jurisdiction, thus the mandate of Order 21 CPC is applicable, thereupon when the consequent thereto provisions of the Limitation Act are also applicable. Resultantly therebys also becomes covered the rendition of an order passed by the Assistant Collector concerned, while exercising jurisdiction on a petition cast under Section 7 of the Act of 1961. Resultantly therebys, the therein prescribed period of limitation is also the prescribed period of limitation rather for enforcing or executing an order of eviction, as becomes passed by the Assistant Collector concerned, through his exercising jurisdiction, on an application cast under Section 7 of the Act of 1961.

19. Now since the execution petition became filed before the elapse of the appositely prescribed period of limitation. Therefore though therebys, prima facie the application was required to be allowed, yet the Assistant Collector concerned, passed an order for consigning the execution petition to the record room. However, the said passed order, does not yet assign any leverage to the present respondent to contend, that rather than Article 136 of the Limitation Act, thus the provisions of Article 137 of the Limitation Act, were to be made applicable to the execution petition. The reason being that, since this Court has concluded, that the mandate of Order 21 CPC is applicable, and, when the execution petition was filed within the stated therein prescribed period of limitation, therebys the consigning of the execution petition to the record room, when became stemmed from the factum, that possession of the disputed lands became also assumed by the



decree holder concerned, whereupon with the execution petition becoming rendered infructuous, therebys reiteratedly it was aptly consigned to the record room. However, even if the Executing Court concerned, has not clearly stated, that on the said ground, thus the execution application became rendered infructuous, but the fact it became consigned to the record room, with an observation, that the possession over the disputed lands became assumed by the decree holder, but was a sufficient manifestation, that there was no requirement of the same being filed/instituted, nor therebys the provisions (supra) of the Limitation Act became attracted, nor the Revisional Court could interfere with the supra order.

Final order

20. Accordingly, this Court finds merit in the instant petition, and, is constrained to allow it. Consequently, the instant petition is allowed. The impugned order is quashed, and, set aside.

21. The miscellaneous application(s), if any, is/are also disposed of.

**(SURESHWAR THAKUR)
JUDGE**

**(VIKAS SURI)
JUDGE**

**March 11th, 2025
Gurpreet**

**Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No**