

2025:PHHC:008874



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

**CWP-8886-1991 (O&M)**  
**Date of decision : 14.01.2025**

MOHINDER SINGH (DECEASED) THROUGH  
LR AND OTHERS

...Petitioners

Versus

GRAM PANCHAYAT, BALLUANA AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARSH BUNGER**

Present : Mr. Suvir Sidhu, Advocate  
for the petitioners.

Mr. Baldev Singh Sidhu, Advocate  
for respondent No.1.

Mr. Navneet Singh, Sr. D.A.G., Punjab.

**HARSH BUNGER, J.**

Petitioner has filed the present writ petition under Articles 226/227 of the Constitution of India, seeking issuance of a writ in the nature of *certiorari* for setting aside order dated 28.09.1989 (Annexure P-7) passed by the learned District Development and Panchayat Officer-cum-Collector, Ferozepur; whereby, he was ordered to be ejected under the provisions of Punjab Public Premises and Lands (Eviction and Rent Recovery) Act, 1973 (in short 'the 1973 Act') from land measuring 18 kanals – 9 marlas, comprised in *Khasra No.40/2(7-7), 25(6-6), 67/5/1(4-6)* situated in Village Balluana, Tehsil Abohar, District Ferozepur.

A further prayer has been made for setting aside order dated 23.04.1991 (Annexure P-9) passed by the learned Commissioner, Ferozpur Division, Ferozpur; whereby an appeal filed by the petitioner against his eviction order dated 28.09.1989 (Annexure P-7) was dismissed.

2. Briefly, in May-1989, respondent No.1-Gram Panchayat, Balluana through its Sarpanch, filed an eviction petition under Sections 4, 5 and 7 of the 1973 Act, seeking eviction of the petitioner from the afore-said land. The petitioner appeared in the afore-said eviction proceedings and made a statement on 22.09.1989, stating that he has no connection with the afore-said land and that the Panchayat can auction the same.

2.1 Considering the afore-said statement made by Sh. Mohinder Singh, the learned Collector, Ferozpur, vide order dated 28.09.1989 (Annexure P-7) allowed the eviction petition filed by the Gram Panchayat and further directed the Panchayat to take possession of the land, in question.

2.2 It transpires that said Mohinder Singh, preferred an appeal under Section 9 of the 1973 Act, challenging the eviction order dated 28.09.1989, primarily disputing the fact that he never made any such statement as recorded by the learned Collector, while passing the eviction order. The learned Commissioner, Ferozpur Division, Ferozpur, vide order dated 23.04.1991 (Annexure P-9), dismissed the appeal filed by the petitioner.

2.3 In the afore-mentioned circumstances, the present writ petition has been filed before this Court, for the relief/s, as noticed here-in-above.

3. Learned counsel for the petitioner submits that the petitioner had migrated to India on account of partition of the country, somewhere in the year 1947 and he entered into possession of the afore-said land situated

at Village Balluana. It is submitted that the petitioner was in an un-disturbed possession of the said land for a period of more than 40 years and his name stands recorded in the revenue records as well. In this regard, learned counsel for the petitioner has referred to the *Jamabandi* for the year 1965-66 upto the *Jamabandi* for the year 1985-86, according to which, in the ownership column, the land in question is recorded as the ownership of Gram Panchayat and in the cultivation column, the name of the petitioner is mentioned. It is submitted that when the petitioner had appeared before the learned Collector, Ferozpur on 22.09.1989, then his signatures were secured upon the representation that since he had prayed for an adjournment, therefore, he should sign the same. It is submitted that the signatures of the petitioner have been exploited. It is further submitted that the petitioner has been in adverse possession of the land in question and had even filed a civil suit, claiming declaration that he has become owner by way of adverse possession, which was decreed vide judgment dated 22.12.1989 (Annexure P-6) passed by the Court of learned Sub Judge Ist Class, Fazilka. It is, accordingly, contended that there was no occasion for the petitioner to have suffered a statement before the learned Collector, Ferozpur that he has no concern with the land in question. It is submitted that the petitioner has already been adjudged as the owner of the land in question by the learned Civil Court, on the basis of an adverse possession. It is, accordingly, submitted that the authorities under the 1973 Act, have wrongly ordered the eviction of the petitioner.

3.1 With the afore-said submissions, the learned counsel for the petitioner prays that the impugned orders be set aside.

4. Per contra, learned counsel appearing for the Gram Panchayat has opposed the submissions made on behalf of the petitioner by submitting

that the petitioner was in un-authorized possession of the *panchayat land* and in the eviction proceedings, he appeared before the learned Collector and made a categorical statement that he has no concern with the land in question. It is submitted that the petitioner is not disputing his signatures on the statement made before the learned Collector, although, it is sought to be explained that his signatures were obtained on the pretext of giving him an adjournment in the case. It is contended that in case, the petitioner was disputing his statement before the learned Collector, in that eventuality, he should have sought review of the order passed by the learned Collector, which was never done.

4.1 As regards the judgment dated 22.12.1989 (Annexure P-6) passed by the learned Civil Court, is concerned, it is submitted that the said judgment is an *ex-parte* judgment, wherein also, the petitioner had not appeared to depose in his favour, rather the case was decided merely on the basis of the statements of Jatinder Pal Singh and Harbhajan Singh. It is submitted that prior to the passing of the said judgment dated 22.12.1989 (Annexure P-6), the petitioner had already been evicted by the learned Collector, Ferozpur vide order dated 28.09.1989 (Annexure P-7). It is also submitted that in fact, the petitioner had concealed the factum of the judgment dated 22.12.1989 (Annexure P-6) at the time of filing an appeal against his eviction order dated 28.09.1989 (Annexure P-7) as no such mention was made in the Grounds of Appeal (Annexure P-8). It is submitted that the learned Commissioner, has passed a well reasoned order, which does not call for any interference by this Court. Accordingly, prayer for dismissal of the writ petition has been made.

5. Heard.

6. In the present case, the petitioner was ordered to be evicted by the learned Collector, Ferozepur under the 1973 Act vide order dated 28.09.1989 (Annexure P-7) primarily on the statement made by the petitioner before the learned Collector that he has no concern with the land in question. It transpires that in the meantime, the judgment dated 22.12.1989 (Annexure P-6) came to be passed by the learned Sub Judge 1<sup>st</sup> Class, Fazilka; whereby a suit for declaration filed by the petitioner claiming ownership of the afore-said land on the basis of an adverse possession was decreed *ex-parte* against the Gram Panchayat. Thereafter, it appears that the petitioner preferred an appeal against the said eviction order, however, a perusal of the 'Grounds of Appeal' (Annexure P-8) would reveal that although the judgment dated 22.12.1989 stood passed, however, said fact was not mentioned in the 'Grounds of Appeal' and it was only at the time of final arguments in the appeal filed by the petitioner under the 1973 Act, the petitioner placed reliance upon the said Civil Court judgment dated 22.12.1989. The contentions raised by the petitioner were considered by the learned Commissioner, Ferozepur Division, Ferozepur, who vide order dated 23.04.1981 (Annexure P-9), dismissed the appeal of the petitioner by observing as under :-

*"I have studied the material available on the record and have also heard the arguments of the parties counsel. It looks obvious from the Collector's order that on 22-9-1989 the appellant made this statement that he has no connection with the land in dispute and that the Panchayat can auction it out. It is in terms of this statement that the Collector passed the orders. At this stage there appears to be no way in the stand of the appellant that he had either not made the statement at all or that he had not made that statement voluntarily.*

*Since the record clearly shows that the recorded statement bears the signatures of the appellant. That statement was made in the presence of the Panchayat's Advocate Shri D.N. Sajan and at the same time the statement of Shri D.N. Sajan was also recorded wherein he stated that the case be decided in terms of the statement of Mohinder Singh. In the background of these circumstances I am in agreement with the counsel for the respondent Gram Panchayat that the Collector had decided the case in terms of the statement made by the respondent. So far as the decision given by the civil court is concerned this looks evident that in terms of the Pb. Public Premises and the Lands (Eviction and Rent Recovery) Act, the Civil Court has no jurisdiction in such matters. Consequently the order passed by the Collector is upheld and the appeal lodged by the appellant is rejected.”*

6.1 A perusal of the above extracted findings returned by the learned Commissioner, Ferozepur Division, Ferozepur would manifest that the learned Commissioner, Ferozepur has recorded a clear finding that the statement of the petitioner was available on the record, which bears the signatures of the petitioner as well. It has further been observed that the said statement was made by the petitioner in the presence of the learned counsel for the Panchayat namely, Shri D.N. Sajan.

7. In my considered view, in case, the petitioner was disputing his statement before the learned Collector, Ferozepur, in that eventuality, he was well within his right to seek review of the order passed by the learned Collector, Ferozepur; however, no such steps were taken by him. That apart, the petitioner has not disputed his signatures on the statement made before the learned Collector, rather he has sought to explain the same by submitting that the signatures were obtained on the pretext that an

adjournment was to be granted to him; however, the same appears to be an afterthought.

7.1 As regards the judgment dated 22.12.1989 (Annexure P-6) passed by the learned Civil Court is concerned, I have gone through the said judgment, however, the same does not inspire confidence for reasons more than one. *Firstly*, the said judgment is an *ex-parte* judgment against the Gram Panchayat. *Secondly*, the petitioner never appeared in the witness box in support of his claim of adverse possession. *Thirdly*, the learned Sub Judge, had proceeded to decree his suit only on the basis of statements of Jatinder Pal Singh and Harbhajan Singh, while placing reliance upon entry in the *jamabandi* for the year 1965-66 onwards. In the entire judgment, there is no reference as to the date when the possession of the petitioner became adverse to its true owner i.e. the Gram Panchayat. *Fourthly*, even if the possession of the petitioner is considered from the year 1965 onwards (based upon entry of petitioner's name in the cultivation column of *jamabandi* for the year 1965-66) even then, by the time of filing of Civil Suit in the year 1989, his possession was only for 24 years, whereas, as per law, in order to claim adverse possession against the Gram Panchayat, the reckonable period would be 30 years and not 12 years.

7.2 That apart, in my considered view, since the land in dispute is recorded as the ownership of gram panchayat; therefore, any person claiming a declaration as to whether said land vested or did not vest in the gram panchayat, would have to file a suit in terms of Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (in short 'the 1961 Act'). It is apposite to note here that Section 11 of the 1961 Act, came to be incorporated/substituted vide Act No.19 of 1976 and in terms of Section 13 of the 1961 Act, the jurisdiction of Civil Court is barred. Still further, in

terms of Section 13-B of the 1961 Act, the provisions of 1961 Act have an overriding effect. Sections 11, 13 and 13-B of the 1961 Act, read as under :-

**Section 11**

*“[11. Decision of claims of right, title or interest in shamilat deh.- (1) {Any person or a Panchayat} claiming right, title or interest in any land, vested or deemed to have been vested in a panchayat under this Act or claiming that any land has not so vested in Panchayat, may submit to the Collector, within such time, as may be prescribed, a statement of his claim in writing and signed and verified in the prescribed manner and the Collector shall have jurisdiction to decide such claim in such manner as may be prescribed.*

*(2) Any person or a Panchayat aggrieved by an order of the Collector made under sub-section (1) may, within sixty days from the date of the order, prefer an appeal to the Commissioner in such form and manner as may be prescribed and the Commissioner may after hearing the appeal, confirm, vary or reverse the order appealed from and may pass such order as he deems fit.]”*

**Section 13**

*“[13. Bar of Jurisdiction in civil courts:- No civil courts shall have jurisdiction –*

*(a) to entertain or adjudicate upon any question, whether any property or any right to or interest in any property is or is not shamilat deh vested or deemed to have been vested in a Panchayat under this Act; or*

*(b) to question the legality of any action taken by the Commissioner or the Collector or the Panchayat, under this Act; or*

*(c) in respect of any matter which the Commissioner or the Collector is empowered by or under this Act to determine.]”*

**Section 13-B**

*“[13-B. Provisions of this Act to be overriding.- The provisions of this Act shall have effect, notwithstanding anything to the contrary in any law or any agreement, instrument, custom or usage or any decree or order of any court or other authority.]”*

7.3 Concededly, in the present case, the suit filed by the petitioner seeking declaration that he has become owner by way of adverse possession was filed in the year 1989 i.e. much after the introduction of Section 11 of the 1961 Act; therefore, in terms of Section 13 of the 1961 Act, the Civil Court had no jurisdiction to try and entertain the suit. Accordingly, the judgment dated 22.12.1989 is liable to be ignored.

8. Considering the totality of circumstances, I find no merit in the present writ petition and the same is, accordingly, dismissed.

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

**January 14, 2025**  
gurpreet

**(HARSH BUNGER)**  
**JUDGE**

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