

with the requirements of Section 15 (2)(i) of the Hyderabad Houses (Rent, Eviction and Leases) Control Act, 1954 in respect of tendering of rent and whether default was committed by the respondent and accordingly set aside the orders of the Court below and remit the matter back to the Rent Controller for rendering a decision in accordance with law by fixing a time schedule.

19. Before us the learned counsel appearing for the respondent submitted that after the order of remittal the Rent Controller dismissed the application. Learned counsel also contended that as against the order of dismissal by the Rent Controller, the petitioner has preferred an appeal before the District Judge which is stated to be pending. Counsel for the petitioner in his submissions contended that since the petitioners in Special Leave Petitions are common if the judgment in Second Appeal No.148-150/1992 is to be set aside, there should be a direction for eviction as against the respondent. Having regard to the subsequent development relating to the Rent Control proceedings in which the appeal preferred by the petitioner is stated to be pending before the Learned District Judge, we are not inclined to accede to the submission of the learned counsel for the petitioner though we have allowed C.A. Nos.5316-5318/2012 (@ SLP (C) Nos.26049-51/2011 preferred against the common judgment in Second Appeal Nos.148-150/92. Such a shortcut method cannot be resorted to based on the submission of the learned counsel for the petitioner. It is for the petitioners to work out their remedies in the Rent Appeal No. 2/2012 pending before the learned Principal District Judge, Latur in the light of the judgment passed in the Civil Appeal Nos.5316-5318/2012 (@ SLP (C) Nos. 26049-51/2011). In the light of our above conclusion, we do not find any necessity to traverse from the various other submissions made in the written submission of the respondent.

20. In the light of the decision in C.A.Nos.5316-5318/2012(@ SLP (C) Nos.26049-51/2011) and in the light of the fact that after the order of remittal passed in Civil Revision Application No.424 of 1987 dated 06.05.2011, the Rent Control Proceeding having been concluded before the Rent Controller, it will have to be held that SLP (C) No.23457/2011 has to be dismissed as having become infructuous. Accordingly, while C.A.Nos.5316-5318/2012(@ SLP (C) Nos.26049-51 of 2011) stand allowed with specific directions as regards the Rent arrears payable by the respondent, the Special Leave Petition No.23457 of 2011 stands dismissed as having become infructuous.

There will be no orders as to costs.

Order accordingly.

PUNJAB AND HARYANA HIGH COURT

Before: Rajive Bhalla & Rekha Mittal, JJ.

Civil Writ Petition No.6675 of 2011

Decided on: 08.08.2012

Gurmail Singh

Petitioner

Versus

Director, Rural Development and Panchayat Department
Punjab and others

Respondents

Present: Mr. Mandeep S. Bedi, Senior Advocate with Mr. Amit Bakshi, Advocate for the petitioner.

Ms. Sudeepti Sharma, DAG, Punjab for the respondent-State.

Mr. J.S.Bhandohal, Advocate for the Gram Panchayat.

A. Punjab Village Common Lands (Regulation) Act, 1961 (18 of 1961), Section 7 (Punjab) – Eviction petition by Gram Sewak – Maintainability of – A petition u/s 7 of the 1961 Act can only be filed by a Gram Panchayat or by a person, authorised in this behalf, either by the State Government or by the Gram Panchayat -- Gram Sewak was neither authorised by the Government nor by the Gram Panchayat to file a petition u/s 7 of the 1961 Act – Matter remitted back, Gram Panchayat would be at liberty to file a fresh application or seek amendment of petition u/s 7 of the 1961 Act.

(Para 8, 9)

B. Punjab Village Common Lands (Regulation) Act, 1961 (18 of 1961), Section 7, 11 (Punjab) – Title dispute – Eviction petition -- Fact that the petitioner has lost in proceedings u/s 11 of the 1961 Act does not detract from the mandatory provisions of Section 7 of the 1961 Act.

(Para 8)

JUDGMENT

RAJIVE BHALLA, J. (ORAL) –

1. By way of this order, we shall dispose of Civil Writ Petition Nos.6675 of 2011, 5808 of 2012, 5829 of 2012, 5830 of 2012 and 5831 of 2012, as they involve adjudication of similar questions of fact and law. For the sake of convenience, facts are being taken from Civil Writ Petition No.6675 of 2011.

2. The petitioner prays for issuance of a writ of certiorari for quashing orders dated 29.01.2009 (Annexure P-1) and 12.11.2010 (Annexure P-2), passed by the District Development and Panchayat Officer (exercising the powers of 'Collector') and the Director Rural Development and Panchayats, Punjab,(exercising the powers of 'Commissioner'), respectively.

3. Counsel for the petitioner submits that the petition under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as 'the 1961 Act') was filed by a Gram Sewak, who was neither authorised by the State Government nor by the Gram Panchayat, to file such a petition. A petition under Section 7 of the 1961 Act can only be filed by the Gram Panchayat or by an officer, especially, authorised either by the State Government or by the Gram Panchayat. The petition filed under Section 7 of the 1961 by the Gram Sewak should have been rejected summarily.

4. Counsel for the Gram Panchayat does not deny the fact that the Gram Sewak was not authorised by the State Government or by the Gram Panchayat but states that as the petitioner has lost his case regarding ownership, the impugned orders should be affirmed.

5. We have heard counsel for the parties and perused the impugned orders.

6. Section 7 of the 1961 Act confers power upon the Collector to put a Panchayat in possession of "Shamilat Deh" on an application having been made to him whether by a Panchayat or by an officer duly authorised in this behalf by the State Government.

7. Section 7 of the 1961 Act reads as follows:-

7. Power to put panchayat in possession of Shamilat deh-

- (1) The collector shall, on an application made to him by a panchayat, or by an officer, duly authorised in this behalf by the state government by a general or special order, after making such 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 collector may exercise the powers of a revenue court in relation to execution of a decree for possession of land under the Punjab Tenancy Act, 1887.

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8. A petition under Section 7 of the 1961 Act can only be filed by a Gram Panchayat or by a person, authorised in this behalf, either by the State Government or by the Gram Panchayat. Admittedly, the Gram Sewak was neither authorised by the Government nor by the Gram Panchayat to file a petition under Section 7 of the 1961 Act. The fact that the petitioner has lost in proceedings under Section 11 of the 1961 Act does not detract from the mandatory provisions of Section 7 of the 1961 Act.

9. In this view of the matter, we allow the writ petition, set aside orders dated 29.01.2009 and 12.11.2010 and remit the matter to the Collector to decide the application afresh and in accordance with law. The Gram Panchayat would be at liberty to file a fresh application or seek amendment of petition under Section 7 of the 1961 Act. The entire proceedings shall be concluded within three months from receipt of a certified copy of this order.

10. Parties are directed to appear before the District Development and Panchayat Officer-cum-Collector, Patiala, on 27.09.2012.

Order accordingly.

PUNJAB AND HARYANA HIGH COURT

Before: Rajive Bhalla & Rakesh Kumar Jain, JJ.

CWP No.4482 of 2011

Decided on: 06.07.2012

Pal Singh and others

Petitioners

Versus

State of Punjab and others

Respondents

Present: Mr. R.K. Arya, Advocate, for the petitioners.

Mr. J.S.Puri, Addl. A.G., Punjab, for respondent Nos.1 to 4.