

independent prior to purchase by the Municipal Corporation. In view of this, clause (c) of Section 3 of the Act can obviously have no application to the case.

14. In ***Raj Kumar Devindra Singh and another (supra)***, the Hon'ble Supreme Court has considered the identical provisions of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1959 which are *pari materia* with the Act of 1973. This judgment (***supra***) also applies to the facts of the present case.

15. In the light of all these facts, it can be held that the petitioner was not in unauthorized occupation of the premises within the meaning of Section 3 of the Act. It is only if the petitioner was in unauthorized occupation of the public premises that the Collector would get jurisdiction to issue a notice under Section 4 (1) of the Act. I, therefore, hold that the notice issued was without jurisdiction, hence, quashed.

16. In view of above discussion, since notice has been quashed being without jurisdiction, the impugned orders dated 16.04.1985 (Annexure P-5) and 08.01.1988 (Annexure P-7) are also set aside and the instant petition is allowed to the extent that the petitioner shall not be evicted from khasra nos.19//1/1, 1/3/1, 10 and 11/1 in which his possession has been shown in the revenue records except in due course of law.

17. The writ petition is allowed as above.

Petition allowed.

PUNJAB & HARYANA HIGH COURT

Before: L.N. Mittal, J.

Civil Revision No.7753 of 2012

Decided on: 22.07.2013

Hardam Singh

Petitioner

Versus

Angrej Singh and others

Respondents

Present: Mr. Gaurav Sharma, Advocate for the petitioner.

Mr. B.R. Mahajan, Advocate for respondents No.12 to 14.

Court Fees Act,1870 (7 of 1870), Section 7(v) – Ad-valorem court fees -- Sale deeds/transfer deeds challenged in the suit were not executed by the plaintiffs -- Plaintiffs were not party to the said deeds -- Plaintiffs are not liable to pay ad-valorem court fee on sale consideration recited in the sale deeds under challenge -- However, plaintiffs are liable to pay court fee on ad-valorem value of the suit land for the relief of possession – In case of agricultural land, the market value shall be ten times the land revenue of the land and on the value so determined, the ad-valorem court fee shall be payable.

(Para 7-9)

Cases referred:

1. Suhrid Singh @ Sardool Singh v. Randhir Singh, 2010(2) Law Herald

(SC) 1371.

JUDGMENT

L.N.MITTAL, J. (ORAL) –

1. Hardam Singh plaintiff No.10 has approached this Court by way of instant revision petition filed under Article 227 of the Constitution of India impugning order dated 26.11.2012 (Annexure P-1) passed by the trial Court thereby directing the plaintiffs (petitioner and pro-forma respondents No.17 to 30) to pay ad-valorem court fee on market value of the suit land as per collector rates.

2. Plaintiffs have filed suit against respondents No.1 to 16-defendants seeking declaratory reliefs, besides relief of possession of the suit land if plaintiffs are not found in possession thereof. Plaintiffs have also claimed permanent injunction.

3. Defendants No.1 to 4 filed application under Order 7 Rule 11 read with Section 151 of the Code of Civil Procedure for rejection of the plaint on the ground that plaintiffs have not paid court fee on the market value of the suit land which according to transfer deeds challenged in the suit is more than Rs.two crores.

4. The plaintiffs by filing reply opposed the aforesaid application and pleaded that proper court fee has been paid.

5. Learned trial Court vide order (Annexure P-1) directed the plaintiffs to pay ad-valorem court fee on the market value of the suit land as per collector rates. Feeling aggrieved, plaintiff No.10 has filed this revision petition to challenge the said order.

6. I have heard counsel for the parties and perused the case file.

7. Admittedly, the sale deeds/transfer deeds challenged in the suit were not executed by the plaintiffs. In other words, plaintiffs were not party to the said deeds. Consequently, in view of the judgment of Hon'ble Supreme Court in **Suhrid Singh @ Sardool Singh Vs. Randhir Singh 2010 (2) Law Herald (SC) 1371**, plaintiffs are not liable to pay ad-valorem court fee on sale consideration recited in the sale deeds under challenge.

8. However, in view of Section 7 (v) of the Court Fee Act, 1870, plaintiffs are liable to pay court fee on ad-valorem value of the suit land for the relief of possession. The question to be determined, however, is as to what would be the market value of the suit land for this purpose. The trial Court has directed the plaintiffs to pay ad-valorem court fee on the market value of the suit land as per collector rates. However, there is no basis for order of the trial Court regarding collector rates of the suit land. On the contrary, according to Section 7 (v) of the Court Fee Act, 1870, in case of agricultural land, the market value shall be ten times the land revenue of the land. In the instant case also, the suit land is agricultural land.

9. Consequently, market value of the suit land has to be determined at ten times the land revenue thereof and on the value so determined, the ad-valorem court fee shall be payable. In addition to it, plaintiffs have to pay requisite court fee for the reliefs of declaration and injunction. It is ordered accordingly in

modification of impugned order Annexure P-1 passed by the trial Court.

10. Disposed of accordingly.

Order accordingly.

PUNJAB AND HARYANA HIGH COURT

Before: Hemant Gupta & Fateh Deep Singh, JJ.

L.P.A. No.2157 of 2013

Decided on: 28.04.2014

Ram Kumar

Appellant

Versus

Financial Commissioner Haryana, Haryana Civil
Secretariat and others

Respondents

Present: Mr. Mani Ram Verma, Advocate for the appellant.

Punjab Land Revenue Act, 1887 (XVII of 1887), Section 13, 15 – Punjab Land Revenue Rules, Rule 16 -- Appointment of Lambardar – Theft of electricity – Compounding of offence – Candidature of -- Appellant compounded the offence of theft of electricity, such fact is relevant and could not be brushed aside only for the reason, that the collector has not noticed such fact -- Such fact has been rightly taken into consideration by the Financial Commissioner – Theft of electricity shows the conduct of the appellant – Order, appointing respondent as Lambardar, upheld.

(Para 6,7)

JUDGMENT

HEMANT GUPTA, J. –

1. The present Letters Patent Appeal under Clause X of the Letters Patent is directed against an order passed by learned Single Judge of this Court on 24th September, 2013, whereby, writ petition filed by the petitioner challenging the appointment of respondent No.4 as *Harijan Lambardar* of village Khabra Kalan, Tehsil and District Fatehabad remained unsuccessful.

2. Initially the Collector appointed the present appellant as Lambardar on 19.6.2001. But the said order was set aside by the Divisional Commissioner on 13.3.2006. After the remand, the Collector appointed respondent No.4 as Lambardar but the said order was set aside by the Commissioner on 21.10.2008. The Financial Commissioner vide order dated 4.7.2013 set aside the order of the Commissioner and restored that of the Collector. The writ petition filed against the order of the Financial Commissioner was dismissed.

3. Learned counsel for the petitioner has vehemently argued that respondent No.4 has been appointed as Lambardar keeping in view the fact that he is son of deceased Lambardar and all the other parameters of the appellant and the respondent No.4 are almost identical. In fact, the appellant own more land than respondent No.4 and has also participated in small savings activities, therefore, he is better qualified than the respondent. Thus,