

ITEM NO.25

COURT NO.2

SECTION IVB

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).5549/2009

(From the judgement and order dated 24/09/2008 in CWP No.16890/2008 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

RAM KISHAN

Petitioner(s)

VERSUS

SUB DIV.OFFICER (C),HISSAR & ORS.

Respondent(s)

(With prayer for interim relief)

Date: 05/09/2011

This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ALTAMAS KABIR
HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Petitioner(s)

Mr. K.K. Mohan,Adv.

For Respondent(s)

UPON hearing counsel the Court made the following
O R D E R

Despite service of notice, none of the respondents have entered appearance in the matter, nor is any one present on behalf of the respondents, when it is taken up, although, it has been specifically listed "for orders" today.

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The petitioner is aggrieved by the order passed by the Division Bench of the Punjab & Haryana High Court in Civil Writ Petition No.16890 of 2008, whereby the High Court dismissed the writ petition of the petitioner.

The facts as disclosed in the impugned order

indicates that the Gram Panchayat of village Mingni Khera Tehsil and District Hisar, filed an application under Section 7 of the Punjab Village Common Lands(Regulations) Act, 1961, as applicable to Haryana, for ejection of the petitioner and for imposition of penalty. The petitioner also filed an application before the Assistant Collector Ist Grade, Hisar, for dismissal of the said application on the ground that the civil court had declared him to be a Gair Marusi tenant. His application was accepted and the ejection application of the gram panchayat was dismissed. The Collector, Hisar, allowed the appeal filed by the gram panchayat and remanded the matter back to the Assistant Collector to re-decide the application filed on 5th October, 2005. Aggrieved by the said order, the petitioner moved a review petition, which was dismissed by the Commissioner, which was again challenged before the High Court by way of a writ petition. The writ court disposed of the matter

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by its order dated 1st November, 2007, directing the Assistant Collector to decide the matter afresh. The matter was again decided and the ejection application of the Gram Panchayat was dismissed. Thereafter, various other proceedings followed, and, ultimately, the matter once again came up before the High Court by way of Writ Petition No.16890 of 2008, and the petitioner restricted his arguments only to the question of imposition of penalty, which was assessed at 3,50,000/-.

We have heard learned counsel for the petitioner and it has been submitted that since the

petitioner had been declared to be a Gair Marusi tenant by the civil court, the question of wrongful occupation of the property in question and payment of penalty did not arise. Learned counsel has also submitted that in the meantime, the petitioner has also handed over possession of the property in question to the respondents.

While issuing notice on 20th March, 2009, we had confined the notice to the question of quantum of punishment and had directed the petitioner to deposit a sum of ` One Lakh by 15th April, 2009. Such amount was deposited on 10th April, 2009 in the Treasury, Hisar.

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We are of the view that having regard to the fact that the petitioner was protected by a decree of the civil court, the penalty imposed was excessive and harsh. Accordingly, we reduce the amount of penalty to the amount deposited with the Treasury, Hisar.

The Special Leave Petition is allowed and the order of the High Court and that of the Collector, Hisar, are set aside. The respondents will be entitled to withdraw the amount which has been deposited in the Treasury, Hisar, upon production of a copy of this order.

(Sheetal Dhingra)
COURT MASTER

(Juginder Kaur)
Assistant Registrar