

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. _____ OF 2022
(ARISING OUT OF SLP (CIVIL) NOS. 10111-10112 OF 2020)

SUCHA SINGH & ORS. ETC.

.....APPELLANT (S)

STATE OF PUNJAB & ORS.

.....RESPONDENT(S)

O R D E R

HEMANT GUPTA, J.

1. Leave granted.
2. The alleged occupants of the Panchayat land are in appeal before this Court against the order of the High Court of Punjab and Haryana at Chandigarh dated 6.12.2019.
3. The predecessor-in-interest of the appellant (Isher Singh) filed a suit before the Civil Court (Civil Suit No. 368/12.6.75) wherein decree was passed on 29.9.1975 that the appellant had become owner of the land in dispute by adverse possession. The appellant claimed that the ancestors of the appellant purchased the land, also purchased share in the *shamlat* land and never paid any Chakota (rent) and that they are cultivating the land in dispute as owner. The appellant relied upon Jamabandi (Ex.P/1) for the year 1963-64 and Ex.P/2 for the year 1968-69 to assert that the appellant was in possession of land for more than 12 years.

4. Such decree was challenged in proceedings under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961¹ claiming that the land measuring 15 kanals 4 marlas situated in Village Naulakha, Tehsil and District Fatehgarh Sahib vests in the Panchayat and that the respondents, the present appellants, are in illegal and unauthorised possession of the said land. The Collector under the Act dismissed the application on 31.1.1985 and held that land is not covered by the definition of *Shamilat Deh* and land is within the share of the appellants. Such order was set aside by the Commissioner holding that the decree suffered on 12.9.1975 was obtained in collusion with the Gram Panchayat and thus, not binding. In the writ petition against the said order, the High Court remanded the matter to the Collector with the consent of the learned counsel for the parties that an issue be framed as to whether the decree was obtained by collusion or fraud when it was so recorded:

“Counsel for the parties agree that orders passed by the Collector/Additional Deputy Commissioner (Development) Fatehgarh Sahib and the Director, Rural Development and Panchayats, Punjab, may be set aside and Collector may be directed to frame an issue and adjudicate, whether judgment and decree dated 29.09.1975 passed by the Sub Judge Ist Class, Bassi Pathana, was obtained by collusion or fraud. It is also prayed that an Opportunity may be granted to parties to lead evidence in support of their respective pleas.”

5. Thereafter, in proceedings under Section 11 of the Act, the following issues were framed:

1. Whether the land in dispute is covered by Section 2(g) of the Punjab Village Common Lands Act?

2. Whether the decree of the year 1975 has been obtained by collusion of Isar Singh and Ranjodh Singh, Panch?

1 For short, the 'Act'

3. Whether the land in dispute was in possession of Issar Singh on 29.01.1950?

4. Relief.”

6. The Collector held that the Gram Panchayat was owner of the land before the decree of the civil court dated 29.9.1975 and entry in this regard is in Jamabandi for the year 1959-60. The Collector also found that the land is *Banjar Kadim* i.e. barren, and the appellants (the respondents before the Collector) are not in possession of the land in dispute prior to 26.1.1950. It was held as under:

“After hearing the arguments of the learned counsel for the Parties and perusal of Jamabandi Ex.P8 for the year 1959-60 for the Village Naulakha, Tehsil Sirhind, District Patiala, the Gram Panchayat is mentioned as the owner of the land and in the column of cultivation, Gram Panchayat is entered in possession and _ the land is Banjar Kadim, from which it is clear that the land in dispute belongs to Gram Panchayat. As per the decree dated 29.09.1975, the petitioners were not shown in the column of ownership or possession in the Jamabandi for the year 1959-60 Ex.P8, from which it is clear that the respondents are not in possession on the land in dispute prior to 26.01.1950. The respondents have been unable to prove their possession over the land in dispute since 26.01.1950. Whereas as per law the cultivating possession prior to 26.01.1950 has to be proved. Harmit Singh, Panchayat Secretary of the Gram Panchayat Naulakha, has himself admitted in his statement that the land in dispute belongs to Gram Panchayat. The respondent Sucha Singh has got the Panchayat land mutated in his name wrongly through Court, which is entirely wrong. The Collector has the exclusive jurisdiction to declare ownership in respect of the land in dispute, under the Punjab Village Common Lands Act. The Gram Panchayat was the owner of the land prior to the decree of Civil Court dated 29.09.1975, there is an entry to this effect in the jamabandi for the year 1959-60. He has also admitted that the civil court decree is not applicable to the land in dispute.”

7. Such judgment was affirmed by the Commissioner on 1.8.2018 and later by the High Court vide impugned order.
8. Learned counsel for the appellants relied upon an order passed by this

Court in ***State of Punjab & Ors. v. Labh Singh & Ors.***² and argued that the decree passed by the competent civil court cannot be nullified with retrospective effect by the Revenue Court. This Court dismissed the appeal with the following order:

“As it appears to us that a decree passed by competent Civil Court cannot be nullified with retrospective. effect by Revenue Court as sought to be made under Section 13-B of the Punjab Village Common Lands (Regulation) Act, 1961 and as similar provision appearing in Haryana Act has already been decided by this Court to the same effect, we do not think that any interference is called for against the impugned judgment and the appeals are therefore dismissed without any order as to costs.”

9. The similar provision in the Act as applicable to Haryana was arising out of situation where the Amending Act in the year 1981 declared the civil court decrees to be null and void. This Court in ***State of Haryana & Ors. v. Karnal Cooperative Farmers Society Limited & Ors.***³ held that the judgment of the competent civil court cannot be nullified by a legislative enactment. In respect of the Act, the matter has been examined by this Court in an earlier judgment reported as ***Gram Panchayat of Village Naulakha v. Ujagar Singh & Ors.***⁴, wherein this Court has reversed the Full Bench judgment of the Punjab & Haryana High Court in ***Gram Panchayat v. Jagar Ram***⁵. The Full Bench of the Punjab & Haryana High Court held that the statutory authorities under the Act could not ignore an earlier decree passed against the Panchayat on the ground of it being collusive and fraudulent unless the Panchayat had first filed an independent suit to set aside the said decree or sought declaration that the decree was collusive or fraudulent. This Court in ***Gram Panchayat***

2 Civil Appeal Nos. 8742-8771 of 1997 with Ors. decided on 12.12.1997

3 (1993) 2 SCC 363

4 (2000) 7 SCC 543

5 AIR 1991 P&H 159 (FB)

of Village Naulakha held as under:

“5. We may state that the view taken by the Full Bench of the Punjab and Haryana High Court in *Jagar Ram case* [AIR 1991 P&H 159 (FB)] is not correct and in fact, it runs contrary to the provisions of Section 44 of the Indian Evidence Act. That section provides that:

“44. Any party to a suit or proceeding may show that any judgment, order or decree which is relevant under Section 40, 41 or 42, and which has been proved by the adverse party, was delivered by a court not competent to deliver it, or was obtained by *fraud or collusion.*”

(emphasis supplied)

(Section 40 refers to the relevance of previous judgments which are pleaded as a bar to a second suit or trial and obviously concerns Section 11 CPC.)

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9. Further property of a public institution cannot be allowed to be jeopardised by persons who, at an earlier point of time, might have represented it and who were expected to effectively defend public interest and community property. Persons representing public bodies are expected to discharge their functions faithfully and in keeping with the trust reposed in them.

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11. Thus, it was open to the statutory authorities under the 1961 Act to go into the collusive nature of the suit in the proceedings under Section 7 of the 1961 Act, as stated above. The High Court has not gone into the merits of the decision of the Collector and the appellate authority but has allowed the writ petition solely based on the Full Bench decision in *Jagar Ram* [AIR 1991 P&H 159 (FB)]. We have now overruled the Full Bench decision. We, therefore, set aside the judgment of the High Court and remit the writ petition to the High Court for disposal in accordance with law, in the light of the above observations.”

10. The argument raised by the appellants that the civil court decree could be set aside only by the civil court is not sustainable for the reason that if the land is *Shamilat*, the jurisdiction of the civil court stands barred under Section 13 of the Act when Punjab Act 19 of 1976 was enacted. After the said date, whether the land vests with the Panchayat or not could be exclusively decided only by the authorities under the Act. Therefore, the

question as to whether the civil court decree is collusive or fraudulent is not required to be set aside by filing another civil suit in view of the bar contained in Section 13 of the Act but by the authorities under the Act which is a complete Code in respect of *Shamilat* land.

11. Therefore, in view of the judgment of this Court in ***Gram Panchayat of Village Naulakha*** i.e., the judgment pertaining to the same Gram Panchayat, the decree obtained against the Panchayat suffers from fraud and collusion, a finding of fact affirmed by the High Court in the writ petition.
12. In view of the above, we do not find any error in the order passed by the High Court. Consequently, the present appeals are dismissed.

.....J.
(HEMANT GUPTA)

.....J.
(V. RAMASUBRAMANIAN)

**NEW DELHI;
APRIL 27, 2022.**

ITEM NO.102

COURT NO.11

SECTION IV-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 10111-10112/2020

(Arising out of impugned final judgment and order dated 06-12-2019 in CWP No. 35420/2019 06-12-2019 in CWP No. 35423/2019 passed by the High Court Of Punjab & Haryana At Chandigarh)

SUCHA SINGH & ORS.

Petitioner(s)

VERSUS

THE STATE OF PUNJAB & ORS.

Respondent(s)

(IA No. 13626/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

WITH

SLP(C) No. 3559/2019 (IV-B)
(FOR ADMISSION and I.R.)

SLP(C) No. 3507/2019 (IV-B)

Date : 27-04-2022 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

For Petitioner(s) Ms. S. Janani, AOR
Mr. Nishant Kumar, Adv.

Mr. Subhasish Bhowmick, AOR [NOT PRESENT]

For Respondent(s) Mr. Nidhesh Gupta, Sr. Adv.
Ms. Japneet Kaur, Adv.
Ms. Pallavi Singh, Adv.
Ms. Vriti Gujral, Adv.
Mr. G. Balaji, Adv.

Mr. R. K. Rathore, Adv.
Ms. Ranjeeta Rohatgi, Adv.
Ms. Samten Doma, Adv.

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

SLP (C) Nos. 10111-10112/2020

Heard Ms. S. Janani, learned counsel appearing for the petitioners.

We find no ground to interfere with the impugned order(s) passed by the High Court. The Special Leave Petitions are, accordingly, dismissed.

Detailed order shall follow.

SLP(C) No. 3559/2019 AND SLP(C) No. 3507/2019

Mr. Subhasish Bhowmick, learned counsel for the petitioner - Municipal Council, is not present.

Let notice be served upon the standing counsel for the State for appearance on the next date of hearing.

List on 04.05.2022.

(JAYANT KUMAR ARORA)
COURT MASTER

(RENU BALA GAMBHIR)
COURT MASTER

ITEM NO.102

COURT NO.11

SECTION IV-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 10111-10112/2020

(Arising out of impugned final judgment and order dated 06-12-2019 in CWP No. 35420/2019 06-12-2019 in CWP No. 35423/2019 passed by the High Court Of Punjab & Haryana At Chandigarh)

SUCHA SINGH & ORS.

Petitioner(s)

VERSUS

THE STATE OF PUNJAB & ORS.

Respondent(s)

(IA No. 13626/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

WITH

SLP(C) No. 3559/2019 (IV-B)
(FOR ADMISSION and I.R.)

SLP(C) No. 3507/2019 (IV-B)

Date : 27-04-2022 These matters were called on for hearing on 27.04.2022 and detailed order is being uploaded on 02.05.2022.

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE V. RAMASUBRAMANIANFor Petitioner(s) Ms. S. Janani, AOR
Mr. Nishant Kumar, Adv.

Mr. Subhasish Bhowmick, AOR [NOT PRESENT]

For Respondent(s) Mr. Nidhesh Gupta, Sr. Adv.
Ms. Japneet Kaur, Adv.
Ms. Pallavi Singh, Adv.
Ms. Vriti Gujral, Adv.
Mr. G. Balaji, Adv.Mr. R. K. Rathore, Adv.
Ms. Ranjeeta Rohatgi, Adv.
Ms. Samten Doma, Adv.

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

On 27.04.2022, the following order was passed :-

"SLP (C) Nos. 10111-10112/2020

Heard Ms. S. Janani, learned counsel appearing for the petitioners.

We find no ground to interfere with the impugned order(s) passed by the High Court. The Special Leave Petitions are, accordingly, dismissed.

Detailed order shall follow.

SLP(C) No. 3559/2019 AND SLP(C) No. 3507/2019

Mr. Subhasish Bhowmick, learned counsel for the petitioner - Municipal Council, is not present.

Let notice be served upon the standing counsel for the State for appearance on the next date of hearing.

List on 04.05.2022."

The detailed order is being uploaded today i.e. on 02.05.2022, in which Leave is granted in SLP (C) Nos. 10111-10112 of 2020 and the appeals are dismissed.

Pending interlocutory application(s), if any, is/are disposed of.

(JAYANT KUMAR ARORA)
COURT MASTER

(RENU BALA GAMBHIR)
COURT MASTER

(Signed order is placed on the file)