

(2022-3)207 PLR 001

PUNJAB AND HARYANA HIGH COURT

*Before: Mr. Justice Augustine George Masih and Mr. Justice Pankaj Jain.*

OMBIR and another - Petitioners,

*Versus*

THE DIVISIONAL COMMISSIONER, ROHTAK and others - Respondents.

CWP-18659-2021

**Punjab Village Common Lands (Regulation) Act, 1961 (18 of 1961) Section 7 - In reply which has been filed by the petitioners to the petition wherein the question of title was raised - That the matter could not be taken further - A perusal of the provision would indicate that the opinion, which has to be formed by the Assistant Collector, 1st Grade, has to be based upon the documents which are placed on record raising the question of title and the doubt with regard thereto - In the absence of any document having been appended along with the reply to the petition filed under Section 7 of the 1961 Act by the respondent-Gram Panchayat, the plea raised cannot be accepted.**

*Mr. Ashwani Gaur, for the petitioners. Ms. Rajni Gupta, Addl. A.G. Haryana, for the State.*

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**Augustine George Masih, J. (Oral) -(23<sup>rd</sup> March, 2022)** - Challenge in this writ petition is to the order dated 08.08.2016 (Annexure P-1) passed by the Assistant Collector, 1st Grade, Sonepat-respondent No. 3, whereby application under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as '1961 Act') has been accepted and for quashing of order dated 04.09.2018 (Annexure P-2) passed by the Collector, Sonepat-respondent No. 2 upholding the order of the Assistant Collector, 1st Grade, Sonepat and thereafter, the order dated 26.07.2019 (Annexure P-3) passed by the Divisional Commissioner, Rohtak Division, Rohtak-respondent No. 1, whereby the revision also has been dismissed of the petitioners.

2. It is the contention of the learned counsel for the petitioners that the proceedings in this matter could not have been taken further by the Assistant Collector, 1st Grade, Sonepat in the light of the reply which has been filed by the petitioners to the petition wherein the question of title was raised.

3. When confronted with the proviso to Section 7(1) of the 1961 Act, which deals with the aspect, as has been sought to be highlighted by the counsel for the petitioners, which requires that in case of question of title being raised, the proceedings should be kept in abeyance till the question of title is decided, the counsel is unable to dispute the fact that along with the reply, which has been filed, there was no document attached thereto.

4. A perusal of the proviso in Section 7(1) of the 1961 Act reads as follows:-

"Section 7 : Power to put Panchayat in possession of certain lands-

(1) An Assistant Collector of the first grade having jurisdiction in the village may, either suo moto or on an application made to him by a Panchayat or an inhabitant of the village or the Block Development and Panchayat Officer or Social Education and Panchayat Officer, or any other Officer authorized by the Block Development and Panchayat Officer, after making such summary enquiry as he may deem fit and in accordance with such procedure as may be prescribed, eject any person who is in wrongful or unauthorized possession of the land or other immovable property in the shamat deh of that village which vests or is deemed to have been vested in the panchayat under this Act and put the panchayat in possession

thereof and for so doing the Assistant Collector of the first grade may exercise the powers of a revenue court in relation to the execution of a decree for possession of land under the Punjab Tenancy Act, 1987.

Provided that if in any such proceedings the question of title is raised and proved *prima facie* on the basis of documents that the question of title is really involved, the Assistant Collector of the first grade shall record a finding to that effect and first decide the question of title in the manner laid down hereinafter."

5. A perusal of the above proviso would indicate that the opinion, which has to be formed by the Assistant Collector, 1 st Grade, has to be based upon the documents which are placed on record raising the question of title and the doubt with regard thereto.

6. In the absence of any document having been appended along with the reply to the petition filed under Section 7 of the 1961 Act by the respondent-Gram Panchayat, the plea, as raised by the counsel for the petitioners, cannot be accepted.

As regards the merits of the case are concerned, we do not find anything which would call for interference by this Court.

The writ petition, therefore, stands dismissed.

**Sd/- Pankaj Jain, J.**

R.M.S. - *Petition dismissed.*