

Karma Vs. Commissioner

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Court : Punjab and Haryana

Decided On : Dec-02-1993

Reported in : (1994)106PLR657

Judge : G.R. Majithia and; S.K. Jain, JJ.

Acts : Punjab Village Common Lands (Regulation) (Haryana Amendment) Act, 1980 - Sections 13B

Appeal No. : C.W.P. No. 11199 of 1993

Appellant : Karma

Respondent : Commissioner

Advocate for Def. : P.S. Kadian, D.A.G. for Respondents Nos. 1 to 3

Advocate for Pet/Ap. : Rameshwar Malik, Adv.

Disposition : Petition dismissed

Judgement :

G.R. Majithia and S.K. Jain, JJ.

1. This judgment disposes of Civil Writ Petitions No. 11199, 11668, 11669, 11686, 11687, 11688, 11791 & 11792 of 1993.

2. In these petitions under Articles 226/227 of the Constitution of India, a challenge has been made to the orders of the Commissioner, Rohtak Division, Rohtak dated August 27, 1993, affirming in revision the orders of the Collector, Panipat dated July 27, 1993, condoning the delay in belated filing of the appeals on behalf of Gram Panchayat, Village Joshi, through Block Development and Panchayat Officer, Madlauda, Tehsil and District Panipat. 3. A reference to relevant facts has been made from the pleadings in C.W.P. No. 11199 of 1993:-

4. The petitioner filed a suit under Section 13-A of the Punjab Village Common Lands (Regulation) Act, 1961 (for short, the Act). It was pleaded that the petitioner was in possession of the land prior to the commencement of the Act. The revenue authorities wrongly mutated the land in his possession in favour of Gram Panchayat, village Joshi. The suit was decreed by Assistant Collector 1st Grade, Panipat vide order dated February 18, 1993. Appeal against the judgment and decree of the Assistant Collector 1st Grade was preferred on behalf of the Gram Panchayat through the Block Development & Panchayat Officer, Madlauda, before Collector, Panipat. The appeal was filed beyond time. An application under Section 5 of the Limitation Act was filed for condoning the delay in belated filing of the appeal. The application was contested by the petitioner. The Collector condoned the delay and also held that the Block Development and Panchayat Officer was competent to file the appeal on behalf of the Gram Panchayat. The petitioner assailed the order of the Collector in revision petition before the Commissioner, Rohtak Division, Rohtak. The revision petition was dismissed and the order of the Collector was upheld.

5. The petitioners in all these petitions have assailed the orders of the Collector and the Commissioner on the solitary ground that the Block Development and Panchayat Officer was not competent to file the appeals on behalf of the Gram Panchayat.

6. Sections 13-A, 13-B, 13-C and 13-D were introduced in the Act by Haryana Act No. 2 of 1981 called the Punjab Village Common Lands (Regulation) Haryana Amendment Act, 1980. These sections read thus :-

' 13 A. Adjudication.

(1) Any person or in the case of a Panchayat, either the Panchayat or its Gram Sachiv, the concerned Block Development and Panchayat Officer, Social Education and Panchayat Officer or any other duly authorised by the State Government in this behalf, claiming right, title or interest in any land or other immovable property vested or deemed to have been vested in the Panchayat under this Act, may, within a period of two years from the date of commencement of the Punjab Village Common Lands (Regulation) Haryana Amendment Act, 1980, file a suit for adjudication, whether such land or other immovable property is shamlat deh or not and whether any land or other immovable property or any right, title or interest therein vests or does not vest in a Panchayat under this Act, in the court of the Assistant Collector of the first grade having jurisdiction in the area wherein such land or other immovable property is situate.

(2) The procedure for deciding the suits under sub-section (1) shall be the same as laid down in the Code of Civil Procedure, 1908.

13B. Appeal and revision.-

(1) Any person, aggrieved by an order passed under Section 13-A, within a period of thirty days from the date of the order, prefer an appeal to the Collector in such form and manner, as may be prescribed, and the Collector may after hearing the appeal, confirm, vary or reverse the order as he deems fit.

(2) The Commissioner may, suo moto at any time, call for the record of any proceedings pending before, or order passed by, any authority subordinate to him for the purpose of satisfying himself as to the legality or propriety of the proceedings or order and pass such order in relation thereto as he may deem fit:

Provided that no order adversely affecting any person shall be passed unless he has been afforded an opportunity of being heard.

13C. Finality of orders.-

(1) Save as otherwise expressly provided in this Act, every order made by the Assistant Collector of the first grade, the Collector or the Commissioner shall be final and shall not be called in question in any manner in any court.

13D. Provisions of this Act to be overriding.

The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any law, agreement, instrument, custom, usage, decree or order of any court or other authority.'

Section 13-A says that the concerned Panchayat or the concerned Block Development and Panchayat Officer or any other officer, duly authorised by the State Government in this behalf, may file a suit for adjudication with regard to any right, title or interest in any land or other immovable property vested or deemed to have been vested in the Panchayat under the Act. The procedure to be followed for deciding the suit shall be the same as laid down in the Civil Procedure Code, 1908. Section 13-B envisages that any person, aggrieved by an order passed under Section 13-A, may within a period of thirty days from the date of the order, prefer an appeal to the Collector in such form and manner, as may be prescribed, and the Collector may after hearing the parties confirm, vary, or reverse the order of- the Assistant Collector 1st Grade passed under Section 13-A of the Act. The person aggrieved under Section 13B(1) has reference to the person mentioned in Section 13A(1). Under Section 13A not only the Gram Panchayat but even the Block Development and Panchayat Officer can file a suit claiming right, title or interest in any land or other immovable property, which he claimed, either vested or deemed to have vested in the Panchayat. The persons aggrieved will be those who are illustrated in Section 13-A of the Act. If the order under Section 13-A has been passed negating the claim of the Panchayat with regard to right, title or interest claimed in any immovable property, the person mentioned in Section 13-A has a right to challenge the same in appeal under Section 13-B(1) of the Act. The concerned Block Development and Panchayat Officer by virtue of the office which he is holding is entitled to prefer an appeal against the order of the Assistant Collector passed in a suit under Section 13-A of the Act. Other persons referred to in Section 13-A can file the suit or the appeal if they have been specifically authorised. But, in the case of Block Development and Panchayat Officer, the power to prefer the suit has been conferred under the statute, He can institute the suit by virtue of the office which he is holding and no specific authorisation is required. If he is not satisfied with the order passed by the Assistant Collector in a

suit under Section 13-A of the Act, he will be a person aggrieved against the order of the Assistant Collector and will be competent to prefer an appeal under Section 13-B of the Act. The Block Development and Panchayat Officer was competent to file appeal.

7. Apart from this, the respondents in the written statement have highlighted that family members of the Sarpanch of Gram Panchayat Joshi were the parties to the suits which were decreed by the Assistant Collector I Grade. Those family members claimed that the land mentioned in the preamble of the plaint in the suits did not vest in the Panchayat and was their personal property. The Sarpanch of the Panchayat did not contest the suit. The respondents say in the written statement that the Sarpanch was colluding with the plaintiffs in the suit. The Sarpanch was not safeguarding the interests of the Panchayat. The Block Development and Panchayat Officer stepped in and filed the appeals against the judgments and decrees of the Assistant Collector I Grade, in which the relief against the Panchayat had been granted in favour of the relations of the Sarpanch. The action of the Block Development and Panchayat Officer in filing the appeals is not only justified in law but is valid on the proved facts of the case.

8. For the reasons stated above, these writ petitions fail and are dismissed.