

Karam Singh

Vs

Collector, Kurukshetra District and Another

Civil Appeal No. 2799 of 1982

(M.H. Kania, R..M. Sahai JJ)

07.01.1992

JUDGMENT

This is an appeal against the judgment of a Division Bench of the Punjab and Haryana High Court dismissing the writ petition filed by the appellant herein. The dismissal of the writ petition is based on the conclusion arrived at by the Division Bench that whether the appellant or his predecessor-in-interest Smt. Jeevani were in possession of the suit property authorisedly or otherwise is a disputed question of fact between the parties and that the said question had received the attention of the Assistant ,Collector and the Collector in appeal. It was held that it was not open to the Court in its extraordinary jurisdiction under Article 226 of the Constitution to go into the disputed questions of fact and it was hence that the writ petition was dismissed. We find that in the judgment it is stated that the said Smt. Jeevani had filed a suit for declaration regarding her ownership against the Gram Panchayat which is the contesting respondent herein and obtained a decree in her favour on October 20, 1965. The petitioner has obtained a decree against Smt. Jeevani in respect of the ownership of the said land. In these circumstances, without any further facts, we find it difficult to accept the view of the High Court that there were disputed questions of fact as to the ownership of the suit land which could not be decided in a writ petition. We, therefore, set aside the impugned judgment and order of the High Court and remand the writ petition to the High Court for disposal according to law. We find that in the disposal of the writ petition several provisions of the Punjab Village Common Lands (Regulation) Act, 1961 will have to be considered and the High Court will naturally dispose of the writ petition after taking the same into consideration. The High Court may dispose of the writ petition as early as possible. For a period of four months from today, the possession of the appellant will not be disturbed pursuant to the impugned orders of the Collector and the Assistant Collector. Thereafter, it will be for the High Court to pass appropriate interim orders. The appeal is allowed as aforestated. There will be no order as to costs. Appeal allowed.

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