
(2000) 12 P&H CK 0137
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 7270 of 2000

Col. Balwant Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 11-12-2000

Acts Referred:

Constitution of India, 1950 — Article 226
Punjab Village Common Lands (Regulation) Rules, 1964 — Rule 6

Citation : (2001) 4 RCR(Civil) 17

Hon'ble Judges : N.C. Khichi, J;Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : Mr. C.B. Goel, for the Appellant; Mr. Ravinder Chopra, Ms Palika Monga, AAG and Ms Madhu Dayal, for the Respondent

Judgement

Jawahar Lal Gupta, J.—The petitioners in this case complain that valuable public property situated in villages Mohanpur and Bodhni is being given on lease by the Panchayats without following the prescribed procedure of open auction. They pray that a writ of mandamus be issued to the respondents to conduct an open auction and that the minimum rate should be Rs. 6,000/- per acre per annum.

2. The petitioners had initially filed a writ petition without impleading the persons, who are actually in possession.

3. A written statement was filed on behalf of respondents No. 1 to 5 by the District Development and Panchayat Officer, Kurukshetra. The averments made in the petition were controverted. No reply has been filed by the two Panchayats.

4. The case was posted before a Bench of this Court, to which one of us (J.L. Gupta, J.) was a party on August 4, 2000. On that day, the statements of Tara Chand, Gram Sachiv, Gram Panchayat, Bodhni, Randhir Singh Sarpanch, Gram Panchayat Village Bodhni and Gurmeet Singh, Sub Divisional Magistrate were recorded.

5. On an examination of the statements, it appeared that even though the

Deputy Commissioner has directed that the land be given on lease at the rate of Rs. 4,000/- to Rs. 5,000/- per acre per annum, it had actually been leased out at a lesser rate. This was despite the fact that vide order dated November 24, 1997, a Bench of this Court had observed that the land in districts of Karnal and Kurukshetra was very fertile and that "annual lease money of such land in more than Rs. 8,000/- per acre per year". A copy of the order passed by the Bench on November 24, 1997 in Civil Writ Petition No. 8829 of 1997 is on record as Annexure P3.

6. In the normal course, the writ petition could have been decided. However, it appears that since the persons, who had been given the land on lease, were not parties in the petition, counsel for the petitioners was given time to amend the petition. The amended petition has been filed. However, no reply has been filed to the amended petition. Counsel for the private respondents has stated that she adopts the written statement Filed by the respondents 1 to 5 prior to the amendment of the petition.

7. Mr. Chater Bhuj Goel, counsel for the petitioners submits that the land carries an annual rental value of not less than 8,000/- per acre. Under the Rules, the Panchayat is bound to lease it out by open auction. Only the highest bidder should be given the land on lease.

8. Ms. Palika Monga, appearing for respondents No. 1 to 5 states that the land shall now be given on lease by open auction only. The auction shall be conducted well before the expiry of the lease. She further states that the reserved rate for lease shall be fixed and that it would not be less than Rs. 6,000/- per acre per annum.

9. Admittedly, there is a huge area of approximately 600 acres in village Mohanpur and 1016 acres in village Bodhni. The land is very fertile. Substantial amount of money, which should be used for public good would be available. Under the provisions of Rule 6 of the Punjab Village Common Lands (Regulation) Rules, 1964, the land has to be given on lease "by auction after making publicity in the manner laid down."

10. In view of the above noted factual position, we direct that the concerned authority shall give publicity regarding the lease by auction in accordance with the provisions of the Rules. It shall fix a reserved rate, which shall not be less than Rs. 8,000/- per acre per annum because Mr. Chater Bhuj Goel has stated before us that the petitioners may be deemed to have given the first bid for Rs. 8,000/- per acre per annum. He further states that to prove their bona fides the petitioners shall deposit an amount of Rs. 25,00,000/- by March 30, 2001. In case nobody offers a higher price, the petitioners shall pay the amount to the Panchayats at the rate of Rs. 8,000/- per acre per annum for the entire area of more than 1700 acres. Still further the Deputy Commissioner-respondent No. 2 is directed to get the auction conducted under his own supervision by appointing senior and reliable Officer to over-see the proceedings.

11. Mr. C.B. Goel prays that the auction should be fixed on a date, well in advance of the expiry of the lease so that nobody is able to create obstruction on the ground that the crop is to be harvested. He further states that to prove their bona fides, the petitioner shall make a deposit of Rs. 25,00,000/- by way of security before the auction on or before March 29, 2001.

12. If the petitioners make the deposit in the Registry of this Court on or before March 29, 2001, the auction shall be conducted by the respondents on April 3, 2001. The persons, who get the land on lease shall make the deposit of the lease money in accordance with the Rules. So far as the petitioners are concerned, the deposit upto the amount of Rs. 25,00,000/-shall be adjusted. In case the petitioners do not abide by their undertaking, they would be liable for action in accordance with law, including under the Contempt of Courts Act, 1971 for violation of the undertaking. It is also directed that respondents No. 8 to 142 shall hand over the vacant possession of the land in their possession on the date of expiry of the lease to the highest bidder, who takes the land on lease on or before June 15, 2001.

13. Steps for publicity etc. shall be taken in accordance with the rules irrespective of the date fixed for deposit of Rs. 25 lacs by the petitioners.

14. The petition is accordingly disposed of. No costs.

15. Petition disposed of.