
(2013) 07 P&H CK 0140
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 12011 of 2012 (O and M)

Gram Panchayat	Vs	APPELLANT
State of Haryana and Others		RESPONDENT

Date of Decision : 16-07-2013

Acts Referred:

Citation : (2013) 4 RCR(Civil) 152

Hon'ble Judges : Surya Kant, J; Surinder Gupta, J

Bench : Division Bench

Advocate : Ravinder Malik, for the Appellant; S.S. Pattar, D.A.G. Haryana for the Respondent Nos. 1 to 5 and 9, Mr. Sanjeev Sharma , Mr. Vikramvir Sharda, Advocate for the Respondent No. 6, Mr. R.S. Cheema , Mr. Arshdeep S. Cheema, Advocate for the Respondent No. 7, Mr. Arun Walia, Advocate for the Respondent No. 8 and Mr. Aalok Kumar Jagga, Advocate for the Intervenor, for the Respondent

Final Decision : Disposed Off

Judgement

Surya Kant, J.—This writ petition has been purportedly filed by the Gram Panchayat of Village Bhadson, District Karnal through three of its elected Panches. It is pertinent to mention here that originally the petitioner-Gram Panchayat challenged the notifications dated 27.02.2012 and dated 01.06.2012 issued by the State of Haryana under Sections 4 & 6 of the Land Acquisition Act, 1894 (in short, "the Act"), respectively, whereby shamlat deh land measuring 116.47 acres owned by the Gram Panchayat was acquired for a "public purpose", namely, to construct Power Sub-Station. When this writ petition came up for preliminary hearing on 05.07.2012, the following order was passed:-

After arguing for some time, learned counsel for the petitioner withdraws the challenge to the acquisition of the land measuring 116.47 acres of shamlat deh vide notification dated 27.02.2012 and 01.06.2012 issued under Sections 4 and 6 of the Land Acquisition Act, 1894. He states that the petitioner limits its challenge to restore unutilized and vacant portion of shamlat land measuring

about 100 acres out of land measuring 168 Acre 2 Kanal 17 Maria transferred to respondent No. 6.

Learned counsel for the petitioner seeks some time to file amended writ petition. May do so on or before 10.07.2012.

The petitioner thereafter amended the writ petition impleading respondents No. 6 & 7 as party respondents. It is equally pertinent to mention here that shamlat deh land measuring about 168 acres 2 kanal 17 marla was sold by the Gram Panchayat of village Bhadson to respondent No. 6-a private sugarmill on 23.08.1994 by way of registered Sale Deed for a sale consideration of more than Rs. 2 crore.

2. By way of amended writ petition, the above-stated sale transaction is now sought to be challenged on the ground that the sale of shamlat deh land for a private purpose was illegal as held by the Hon''ble Supreme Court i Jagpal Singh and Others Vs. State of Punjab and Others,

3. State of Haryana and other respondents including private respondents No. 6 & 7 have filed their replies/affidavits. They have also placed on record the original and actual resolution passed by the Gram Panchayat which is only for challenging the acquisition of shamlat deh land by State of Haryana in the year 2011-2012 for the construction of Power Sub-Station. In other words, it is suggested that the Panches, through whom the writ petition was filed, were never authorized to challenge the old sale transaction made in favour of respondent No. 6 way back in the year 1994.

4. The three Panches through whom the Gram Panchayat has filed this writ petition have also instructed their counsel (Annexure P11) that they "cannot pursue this case due to personal reason". Based upon that, learned counsel for the petitioner has moved an application that he may be permitted to withdraw his instructions in this case.

5. We also find from the record that one Gurdyal Singh-Lamberdar of the same village had earlier filed CWP No. 21955 of 2010 questioning the 1994 sale transaction made in favour of respondent No. 6-the Sugarmill. The said writ petition was disposed of by a Division Bench of this Court vide order dated 03.03.2011 which reads as follows:-

This Public Interest Litigation has been filed for quashing orders dated 30.03.1994, 18.04.1994 and 23.08.1994 (Annexures P-4 to P-6 respectively) transferring Shamlat Deh land measuring 168 acres, 2 kanals and 17 marlas to the respondent No. 7.

It is stated by the learned counsel for the petitioner that in terms of an order dated 28.1.2011 passed by the Apex Court in Civil Appeal No. 1132 of 2011 (Jagpal Singh and others v. State of Punjab and others), the relief as sought for in this writ petition would automatically follow. If that be so, the petitioner should file an application before the concerned Authority of the State to give effect to

the orders of the Apex Court in respect of the transfer of land to the respondent No. 7 as challenged in the present writ petition.

We, therefore, do not consider it necessary to entertain this PIL any further. It is accordingly disposed of by permitting the petitioner to approach the concerned Authority of the State Government as indicated above.

(Emphasis applied)

6. Gurdial Singh is said to have moved an application before the competent authority in terms of the above-reproduced order of this Court which is still pending before the competent authority.

7. From the above-mentioned facts, it thus, emerges that (i) the original writ petition was filed questioning the acquisition made by the State Government in the year 2011-2012 for construction of Power Sub-Station; (ii) the Gram Panchayat does not appear to have resolved to challenge the sale transaction of 1994 nor such a resolution has been placed on record; (iii) the challenge of the Gram Panchayat to the acquisition of the year 2011-2012 was summarily rejected by this Court on 05.07.2012.

8. The only effective remedy to question the sale transaction made in favour of respondent No. 6 or 7, would be, as determined by this Court in Gurdial Singh's case, reproduced above and not the writ jurisdiction of this Court.

9. For the reasons afore-stated, we decline to entertain this writ petition, however, with liberty to:-

(i) the Gram Panchayat or other residents of village Bhadson, District Karnal to approach the State Government for the release of their land from acquisition and thereafter, if so advised, lay fresh challenge before this Court or any other forum against the acquisition of shamlat deh for the purpose of Power Sub-Station.

(ii) the Gram Panchayat of village Bhadson, the petitioner Panches or other residents may, if they have any locus standi, institute an appropriate petition before the competent authority questioning the sale transaction of the year 1994 made in favour of respondent No. 6, before the competent authority as permitted by this Court in Gurdial Singh's case.

(iii) If such a petition is filed by any stakeholder, the competent authority is directed to decide the same in accordance with law within six months from the date of its filing.

(iv) The aggrieved party shall then be at liberty to approach the appropriate forum including this Court, if so permissible.

10. With these observations and liberty, the writ petition stands disposed of. Dasti