
(1985) 04 P&H CK 0027
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 4698 of 1982

Gurdial Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 12-04-1985

Acts Referred:

Citation : (1985) ILR (P&H) 411 : (1985) PLJ 278 : (1986) RRR 556

Hon'ble Judges : I.S.Tiwana, J

Advocate : Gurcharan Singh, Advocate., Advocates for appearing Parties

Judgement

I.S. Tiwana, J. (Oral)

1. Gram Panchayat, Bhathlan, resolved on July 6, 1982, vide resolution No. 80 to transfer 4 Bighas and 2 Biswas of land comprising of Khasra No. 273 to the Health Department of the State of Punjab for purposes of constructing a Health Sub Centre therein. The petitioners who claim to be residents and voters of Gram Sabha of this Panchayat, impugn this resolution on two grounds :

(i) Earlier also on November 8, 1979, the Panchayat had passed a similar resolution for transferring certain land comprising of Khasra Nos. 41 and 42 but since a part of those Khasra Nos. was in illegal and unauthorised occupation of the Sarpanch, Shri Jagar Singh, the Panchayat failed to implement that resolution with the ulterior motive of benefiting the Sarpanch and to gift some other land in favour of the Health Department which it has now done as indicated above. So the present action of the Gram Panchayat is vitiated on account of the mala fides on the part of the Sarpanch, Shri Jagar Singh.

(ii) Before actually transferring the land to the Health Department, the Panchayat failed to seek prior approval of the Zila Parishad, Sangrur, as per the requirement of Rule 13 of the Punjab Village Common Lands (Regulation) Rules, 1964.

2. So far as the first part of the matter is concerned, Shri Jagar Singh has filed the written statement contending that no part of Khasra Nos. 41 or 42 was ever

in his possession. His further stand is that the said resolution was not implemented as the land proposed to be transferred to the Department was not found suitable for the construction of a Dispensary or a Health Sub Centre. The petitioners have failed to produce any record to show that Jagar Singh Sarpanch was ever in possession of any portion of Khasra Nos. 41 and 42. In the face of this factual position there is hardly any material on record to build the argument as has been raised by the learned counsel for the petitioners.

3. So far as the other aspect of the matter is concerned, it is the undisputed position that since the passing of the resolution dated July 6, 1982 (Annexure P2), a registered gift deed has already been executed by the Panchayat in favour of the Health Department of the State Government on August 25, 1982 and a certified copy of that registered deed is Annexure P. 3. It is again the admitted position that though as per Rule 13 of the Rules referred to above the Panchayat was required to take approval of the Zila Parishad prior to its transferring the land in favour of the Health Department, yet that approval was communicated to the Panchayat by the authorities concerned on January 7, 1983, i.e., subsequent to the execution of the registered deed.

4. Having given my thoughtful consideration to the entire matter I find that this is not a case where this Court should invoke its extra ordinary powers under Article 226 of the Constitution. Firstly, I am of the view that the Panchayat being the rightful owner of the land in question was competent to transfer this land in favour of the Health Department through a legal instrument/document, i.e., the registered gift deed in the instant case and its failure to comply with the provisions of Rule 13 in not obtaining prior approval of the Zila Parishad about this transfer does not affect the validity or legality of this transfer. If at all, the Panchayat may be liable for some disciplinary action in accordance with law but the above said noncompliance of Rule 13 by itself does not in any way affect the legality or validity of the transfer. Secondly, as already pointed out, the authority concerned, i.e., Zila Parishad has already approved the action of the Panchayat.

5. Besides all this, it has been brought to my notice by the learned counsel for the Panchayat that some other persons including Smt. Jaswant Kaur, a sisterinlaw of Gurdial Singh, present petitioner, had failed to obtain a similar relief in the civil Court when their suit No. 375 of 18th September, 1982, was dismissed by the SubJudge 1st Class, Barnala, Copy of this judgment is Annexure P.2 on the records of this case.

6. For the reasons recorded above, this petition is dismissed with costs which I determine at Rs. 500/.