
(1975) 01 P&H CK 0015
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 5130 of 1974

Hazura Singh

APPELLANT

Vs

Sub-Divisional Officer (C) Muktsar

RESPONDENT

Date of Decision : 15-01-1975

Acts Referred:

Citation : (1975) ILR (P&H) 294 : (1975) PLJ 101 : (1985) RRR 600

Hon'ble Judges : A.S.Bains, J

Advocate : Mr. B.S. Bindra, Advocate., Advocates for appearing Parties

Judgement

A.S. Bains, J.

1. This order will dispose of Civil Writs Nos. 5130, 5131, 5132 and 5134 of 1974. Although the petitioners in all the four writ petitions are different, yet the respondents are the same and the dispute regarding the auction of land also relates to the same Gram Panchayat, so it will be convenient to dispose them of by a single order.

2. The Gram Panchayat Chibranwali, respondent No. 2, in a meeting held on 9th April, 1974, decided to auction the Panchayat land on 23rd April, 1974, for the agriculture year 1974-75. This resolution of the Panchayat was promulgated in the village by beat of drum through Gurdial Singh Chowkidar. The auction could not take place on 23rd April, 1974, as few persons only came to participate in the auction and it was decided by the Panchayat that another attempt be made and auction be held on 29th April, 1974. Due publicity was also made for this auction, which was fixed for 29th April, 1974, through the beat of drum. The auction took place on 29th April, 1974. In the auction, all the petitioners gave the highest bid. The petitioner in writ petition No. 5130 of 1974 made the highest bid with respect to the plot measuring 105 Kanals for Rs. 4,290/ which was accepted and accordingly he deposited one fourth of the auction money also at the spot. Auction proceedings were duly signed by Harbans Singh Sarpanch, Harchand Singh, Yugraj Singh, Mukand Singh and Punjab Kaur, members of the Panchayat. Similarly petitioners in other writ petitions deposited one-fourth of the auction

money and in their cases also the proceedings were signed by he said Panches. In pursuance of the bids, lease deeds were executed between the petitioners and the Panchayat, and the petitioners were also given possession of the respective lands. The remaining threefourths of the lease money was paid to the Sarpanch of the Gram Panchayat on 14th May, 1974. These facts are not controverted by the respondents either by way of written statement or otherwise.

3. Later on, a complaint was made by respondent No. 3 against the Sarpanch that the auction held on 29th April, 1974, was irregular and was an act of favouritism. This complaint was made to the Sub Divisional Officer, Muktsar. The Sub Divisional Officer, purporting to exercise powers under section 97 of the Punjab Gram Panchayat Act, set aside the auction on 28th August, 1974, without affording any opportunity to the petitioners. No notice was sent to the petitioners although the Gram Panchayat did appear on 28th August, 1974. Aggrieved by this order of SubDivisional Officer dated 28th August, 1974, the petitioners filed four separate writ petitions.

4. Mr. B.S. Bindra, the learned counsel for the petitioners, submitted that Sub Divisional Officer, respondent No. 1, has acted without jurisdiction and has not followed the principles of natural justice and also has not complied with the provisions of section 97 of the Punjab Gram Panchayat Act. He further states that respondent No. 1 has no power to cancel the lease etc. under section 97 of the Punjab Gram Panchayat Act as there is a special Act, viz. the Punjab Village Common Lands (Regulation) Act, dealing with the leases etc. which is a selfcodified Act and the remedies to the aggrieved persons are specified in the said Act. As such, respondent No. 1 had no authority to cancel the lease under section 97 of the Punjab Gram Panchayat Act, which is reproduced as under :

"97. Power to suspend the action of Gram Panchayat. (1) The Deputy Commissioner or the Sub Divisional Officer as the case may be, may by written order suspend the execution of any resolution or order of the Gram Panchayat other than an order passed in judicial proceedings or prohibit the doing of any act which is about to be done or is being done under cover of this Act.

(2) The Deputy Commissioner or the SubDivisional Officer as the case may be shall forthwith send to the Director a copy of the order with a statement of his reasons for making it, and with such explanation as the Gram Panchayat may offer, and the Director may thereupon confirm, modify or rescind the order."

5. The bare reading of the provision of this section shows that the Sub Divisional Officer is not competent to cancel or suspend the execution of any resolution or order of the Gram Panchayat but he has to send a copy of his order, with a statement of reasons for making it and with such explanation as the Gram Panchayat may offer, to the Director who may then confirm, modify or rescind the order under subsection (2) of section 97 of the Punjab Gram Panchayat Act. It is evident that the final authority in such matters is the Director and not the SubDivisional Officer. What has happened in this case is that the SubDivisional

Officer has passed the final order without affording any opportunity to the petitioners, cancelled the lease of the petitioners and also fixed a date for reauction of the lease lands in dispute. The impugned order (Annexure "P.1" to the petition), will show that he has not given any reasons for making it. He has, after discussing the evidence in para 8, simply said that he felt the work done by the Sarpanch was illegal but he did not state as to how it was illegal.

6. For the foregoing reasons, the impugned order, (Annexure "P.1" to the petition) is quashed and all the four writ petitions are allowed but there will be no order as to costs. Complainant Sukhdev Singh is, however, at liberty to move the authorities in accordance with law in the matter.