
(1994) 04 P&H CK 0043
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 10721 Of 1993

Isham Singh

APPELLANT

Vs

State of Haryana etc.

RESPONDENT

Date of Decision : 04-04-1994

Acts Referred:

Punjab Village Common Lands (Regulation) Rules, 1964 — Rule 13

Citation : (1994) 107 PLR 542

Hon'ble Judges : V.K. Bali, J;G.R. Majithia, J

Bench : Division Bench

Advocate : C.B. Goel, for the Appellant; J.C. Sethi, Addl. A.G. for Respondent No. 1, S.S. Dinarpur and Aman Dahiya, for the Respondent

Final Decision : Dismissed

Judgement

G.R. Majithia, J.—The petitioner has challenged the order contained in Endst. No. S-2-93/21586-89, dated 20-4-193, issued by the Commissioner and Secretary to Government, Haryana, Development and Panchayat Department, Chandigarh, according approval for the gift of sham-lat land of Gram Panchayat Damla, Block Jagadhri, measuring 59 acres 5 kanals 10 marlas out of Khasra No. 201 to Ch. Charan Singh Haryana Agricultural University, Hissar, for the construction of Krishi Vigyan Kendra at Yamunanagar, in this petition under Articles 226/227 of the Constitution of India.

2. The petitioner says that the land which has been gifted was reserved as abadi area at the time of consolidation in the village. He was in possession of land measuring 16 kanals out of 469 kanals 10 marlas comprised in Khasra No. 201 as a co-sharer and it does not vest in the Gram Panchayat.

3. In response to the notice of motion issued by this Court, written statements have been filed on behalf of respondents No. 1, 2 and 4 and Gram Panchayat Damla through its Sarpanch. Respondents No. 1, 2 and 4 have pleaded that the disputed land falls within the definition of "shamlat deh" and vests in the Gram

Panchayat. Consolidation of holdings in the village concluded in the year 1955-56 and all the right holders took possession of the new sites allotted to them in consolidation. The land was lying vacant and it vested in the Panchayat in terms of Section 2(g) of the Punjab Village Common Lands (Regulation) Act, 1961, as applicable to the State of Haryana (for short, the Act). It is further pleaded that the disputed land was reserved as abadi deh at the time of consolidation. The village was previously located in the disputed land, but during consolidation proceedings, new abadi area was carved out and all the right holders had occupied the sites allotted to them in the new abadi area. The land was gifted by the Panchayat and the State Government had granted approval to the gift. The gram Panchayat has gifted land to the educational institution. The main object of Krishi Vigyan Kendra is to impart vocational training to farmers, farm women, drop-outs, rural youth and also to provide necessary facilities to the farmers at their doorsteps. The problems of the farmers will be taken care of by the experts in the various disciplines of Agriculture, Animal science and Veterinary Science/Home /Science. The Krishi Vigyan Kendra will also help the farmers engaged in farming, dairying and similar allied activities and also establish necessary facilities for testing soil and water, which will help farmers of the area for better production and for raising their standard of living. The petitioner occupied a part of the disputed land to show his possession, the Revenue authorities had ordered correction of entries in the Khasra Girdawaris.

4. The Gram. Panchayat in its written statement has pleaded that the petitioner occupied a portion of the land and in the column of cultivation in the Jamabandi for the year 1989-90, it is recorded "Gair maurusi, billa laqan". This entry obviously reflected that the petitioner was in possession of the disputed land without any rights. A petition moved by Jag Ram and Vinod Kumar, residents of village Damla, for correction of Khasra Girdwari entries in respect of the land measuring 16 Kanals comprised in Khewat No. 1141, Khatauni No. 1504 and Khasra No. 201, which is part of the total land measuring 469 Kanals 10 Marias of this Khewat, was dismissed by the Assistant Collector II Grade, Jagadhri, but on appeal, the order of the Assistant Collector was reversed by District Collector, Jagadhri, vide order dated April 8, 1993, observing thus :-

"After hearing counsel for both the parties and going through the relevant record, I have come to conclusion that the disputed land is old abadideh and the same is not covered by Section 4 of the Land Revenue Act and hence the same is not covered by the definition of land. On account of the aforesaid reasons, the correction of girdawari of the disputed land is neither justifiable nor legal. Such type of land which had abadi earlier vests in the Gram Panchayat and as the Gram Panchayat has not been made as a party, the application pending before the A.C. 2nd Grade is not maintainable. Hence I come to the conclusion that the application pending before the A. C. 2nd Grade, Jagadhri for correction of Khasra girdawari is not maintainable and consequently the application by the applicant for carrying out the correction in khasra girdawari is hereby rejected and the entry made in the column of cultivation in respect of disputed land is also

ordered to be rejected as the same is wrong abinitio."

The petitioner preferred an appeal before the Commissioner, Ambala Division, Ambala, which was dismissed vide order dated June 9, 1993.

5. The learned counsel for the petitioner made the following submission:-

(i). The disputed land does not vest in the Panchayat; and

(ii). Post facto sanction for gifting the Panchayat's land to Charan Singh Haryana Agricultural University, Hisar, could not be granted.

6. The land measuring 469 Kanals 10 Marias comprised in Khewat No. 1141 min, Khatauni No. 1514, Khasra No. 201 situate in the area of village Damla is entered as abadi deh in the columns of ownership and cultivation in Jamabandi for the year 1984-85 and the correct translation of the relevant portion of the Jamabandi reads as under :-

Khewat or Khatoni	Name of the	Name of Khasra	Rakba/	Jamabandi No.	owner
with cultiv-	No.	Type	of	No.	detail.
					tor with land
					detail.

-----	1141	1514			
Abadi Deh	Abadi	201	469-10	Deh	Gair Mumkin Old Abadi Clause (2a) of Section 2(g) of the Act defines the "Shamilat deh" as the "vacant land situated in the abadi deh or gora deh not owned by any person". this clause was inserted by the Haryana Act No. 15 of 1983 with effect from February 12, 1981. Vacant land in the abadi deh is shamlat deh. The land which has been gifted is a part of abadi deh and is shown in the remarks column of the Jamabandi as "Gair Mumkin Old Abadi." The official respondents have taken a positive stand that village Damla was previously located in the area of Khasra No. 201, but the whole village abadi had shifted to another site. The old abadi area of the village is lying vacant. The learned counsel for the petitioner is not correct in his submission that the disputed land is not shamilat deh-

7. Shamilat deh vests in the Panchayat by virtue of Section 4 of the Act. Rule 13 of the Punjab Village Common Lands (Regulations) Rules, 1964 (for short, the Rules) says that the Panchayat can gift land in shamilat deh which vests in it under the Act to educational institution with the approval of the government. Gram Panchayat Damla has gifted shamilat land measuring 59 acres 5 Kanals 10 Marias out of Khasra No. 201 to Ch. Charan Singh Haryana Agricultural University, Hisar for construction of Krishi Vigyan Kendra at Yamunanagar, vide its resolution No. 1 dated nil. The Panchayat has the right to gift the disputed land to educational institution with the approval of the State Government and this course was followed by it. The order of the State Government dated April 2, 1993, granting approval reads thus :-

"Under rule 13 of the Punjab Village Common Lands (Regulation) Rules, 1964, the Governor of Haryana is pleased to accord approval for the gift of shamlat land of Gram Panchayat Damla, Block Jagadhri measuring 59 acres 5 Kanals 10 Marias out of Khasra No. 201 to the Ch. Charan Singh Haryana Agriculture

University, Hissar for the constitution of Krishi Vigyan Kendra at Yamunanagar as resolved by Gram Panchayat Damla Block Jagadhri vide its resolution No. 1 dated nil."

The learned counsel for the petitioner says that the approval was given by the State Government subsequent to the gift. No such inference is deducible from the order of the State Government, reproduced supra. The Panchayat passed the resolution gifting the land and sent it to the State Government for approval and the approval was granted. The gift was complete only when the approval was accorded by the State Government as enjoined under rule 13 of the Rules. Even otherwise, there is no bar in law that the post-facto sanction of the gift cannot be accorded. However, in the instant case, apart from the bald assertion there is no material on record to urge that post facto sanction was granted by the State Government to the Panchayat to gift away the land to Ch. Charan Singh Haryana Agricultural University, Hisar, for the constitution of Krishi Vigyan Kendra at Yamuna Nagar.

8. For the reasons stated above, the writ.