
(1984) 05 P&H CK 0032
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 3773 of 1978

Jug Lal

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 09-05-1984

Acts Referred:

Citation : (1984) PLJ 328 : (1985) RRR 444

Hon'ble Judges : M.M.Punchhi, J

Advocate : Sudershan Goyal, Advocate., Advocates for appearing Parties

Judgement

M.M. Punchhi, J.(Oral)

1. The petitioner Jug Lal, resident of village Mithathal, Tehsil and District Bhiwani, claiming himself to be a cosharer in the shamlat land of the village, is aggrieved against an action of the Gram Panchayat, Mithathal, whereby it sold and exchanged some land owned by it to the large number of private respondents arrayed herein. The main grievance is that, being a resident of the village, he has been deprived of the common user thereof. He maintains that the action of the Panchayat was not in accordance with law and, in particular, Rule 12 of the Punjab Village Common Lands (Regulation) Rules, 1964, as applicable to the State of Haryana.

2. The petitioner avers that, vide resolution dated 24.4.1975 (Annexure P1), the Panchayat resolved to sell small pieces of land so that its income may be utilized for development works in the village. According to the petitioner, it was signed by six out of nine Panches and it did not have the requisite threefourths majority as required under rule 12. Furthermore, the petitioner avers that when the resolution was given the approval by the State Government, the auction was not held properly inasmuch as due publicity had not been given by the Deputy Commissioner and, in this manner, the panchayat had been made a loser and indirectly the petitioner. Lastly, it is averred that when he took the matter in application to the Collector (the Deputy Commissioner) under Rule 34 of the Punjab Gram Panchayat Rules, 1965, the Collector did not pass a speaking order

and perfunctorily dismissed the application terming it as revision, vide his order dated 26.6.1978 (Annexure P6).

3. Return has been filed on behalf of the private respondents Nos. 3 and 4. It is categorically countered that the petitioner has made misstatements and concealed material facts by supplying wrong documents. Particular mention was made to Annexure P1, the resolution dated 24.4.1975. It was averred that seven Panches had signed the resolution. It was claimed that Annexure P1 was an incomplete document and rather Annexure R1 was the true copy of the resolution. Similarly, it was claimed that Annexure P4, the resolution regarding auction, was also an incomplete document and Annexure R2 dated 12.1.1977 was the complete document. It was pointed out that, in that resolution Annexure R2, the presence of the petitioner signified by his thumb impression is also mentioned and it is further mentioned that proclamation had been made in the entire village and proceedings had been conducted in the presence of all the villagers who assembled for the purpose. It was countered that the petitioner had misled the Court. So far as the order dated 26.6.1972 (Annexure P.6) of the Collector was concerned, it was countered that it was a proper order passed by him after he had noted the contentions of the respective parties.

4. So far as the alleged violation of rule 12 of the Punjab Village Common Lands (Regulation) Rules is concerned, the learned counsel for the petitioner has candidly conceded that, in view of the original record being shown to him, Annexure R1 was the correct copy of the resolution and not Annexure P1. Thus, it is beyond doubt that the resolution dated 24.4.1975 for selling the property was passed by the requisite majority, which received sanction from the Government. So far as grouse that due publicity was not given for the auction of the land, it is patent from the record of the Panchayat that the petitioner was present on the day of the auction and resolution Annexure R2 clearly specific that due publicity had been given for the auction in the village and all proceedings had been conducted in the presence of the entire village. The petitioner cannot be said to be an aggrieved person on that score. Obviously, the copy of resolution Annexure P4 filed by the petitioner is an incomplete document and not worthy of credence.

5. Learned counsel for the petitioner then contended that the Panchayat had only resolved to sell the land and yet part of the land it had exchanged. It had no power to do so. The argument loses sight of the resolution dated 24.4.1975 (Annexure R1) whereby the Panchayat wanted to utilize the proceeds of sale for development works of the Panchayat streets, school and hospital building. At least the latter two required sites to be employed for the purpose. And, if the Panchayat resorted to exchanging the land to fulfil that purpose, I see no reason why these be not termed an involving sales and simultaneous purchases by means of exchange. In any case, the petitioner cannot be said to be even remotely aggrieved on that account.

6. Lastly, it has been contended on behalf of the petitioner that order Annexure

P6 passed by the Collector is not a speaking order. As is plain from the language of Rule 34 of the Punjab Gram Panchayat Rules, 1965, any person aggrieved by an order or by any resolution of a Panchayat, other than one relating to the judicial functions of the a Panchayat, may prefer an application to the Deputy Commissioner within a period of thirty days of the order or the resolution. As is averred by the petitioner, he filed the application under Rule 34 oncoming to know of it on 10.1.1978 whereas the resolutions in question themselves are of 24.4.1975 and 12.1.1977. Obviously, they were much beyond the period of thirty days, and a composite application challenging them beyond the period of thirty days was disposed of by the Collector. Though it is true that under Rule 34, an application may be entertained by condoning the delay for sufficient reasons yet, it seems, that the Collector did not invite his attention to the aspect of limitation for preferring the application. The petitioner, as it appears to me, made false averments by stating that when he came to know of the resolutions he filed the application dated 10.1.1978, conveniently overlooking that, at least, in resolution dated 12.1.1977 his presence had been recorded in the proceedings and he had thumbmarked thereon. It cannot be said that he was ignorant thereof for nearly one year before he made the application under Rule 34. In this situation, much of the sting that the order Annexure P6 passed by the Collector is a nonspeaking one, is taken away. Even a bare reading thereof discloses that the respective contentions had been noted by the Collector and then he recorded his disfavour towards the points raised by the applicant. In no case, could such proceedings be termed as appellate or revisional so as to require an elaborate reasoning for confirming or reversing the view of a lower body. The power conferred on the Deputy Commissioner on the receipt of such application is only for the purpose of suspending the execution of any resolution or order in dispute, or for prohibiting the doing of any act which is about to be done or is being done by the Panchayat. Here, it seems everything has been done in consonance with the resolution and the vendees and the exchangeholders to have taken possession of their respective pieces of land. Thus, the colour and hue of jurisdiction, like appellate or revisional, could not be that of the Deputy Commissioner under Rule 34. It is a power somewhat akin to section 232 of the Punjab Municipal Act, 1911, and the scope of that section is well known. Thus, the contention, as raised also fails.

7. For the view above taken, I find no merits in this petition which fails and is hereby dismissed with costs. Civil Misc. Application No. 1220 of 1984 is allowed.