

**HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.12462 of 1991 (O&M)

Date of Decision: 26.02.2015

Wasan Singh

... Petitioner

VS.

Joint Director Panchayat, Punjab & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE RAJ MOHAN SINGH

1. Whether Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporters or not?

3. Whether the judgment should be reported in the Digest?

Present: Mr. SD Sharma, Senior Advocate with
Ms. Bindu Goel, Advocate for the petitioner

Mr. Aman Bahri, Addl. AG Punjab

Mr. Naresh Prabhakar, Advocate for respondent No.3

SURYA KANT, J. (Oral)

(1) The petitioner impugns the orders dated 28.07.1986 and 14.06.1991 whereby on an application moved by the respondent Gram Panchayat under Section 4, 5 & 7 of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1974, he was ordered to be evicted from Khasra No.353 min measuring 7 kanal situated in village Talwandi Chaudhrian, Tehsil Sultanpur Lodhi, District Kapurthala and appeal against the eviction order was also dismissed by the Joint Director Panchayats exercising the powers of Commissioner under the Act.

(2) The precise case of the petitioner is that he originally belongs to village Pakhopur, Tehsil Tarn Taran, District Amritsar.

Their family came down and settled in village Talwandi Chaudhrian in the year 1947 and occupied the subject land where residential house has been constructed on an area measuring 1 kanal 18 marla. Rest of the vacant land was used for allied and miscellaneous purposes.

(3) On the other hand, Gram Panchayat's case is that the petitioner is in unauthorized occupation of its land since 1985. The version of the Gram Panchayat was accepted by the authorities and consequently the eviction order has been passed.

(4) When this writ petition came up for hearing before this Court on 22.10.2013, the following order was passed:-

“Vide order dated 27.07.2011, it was noted that the petitioner is living in part of the land in dispute for the last so many decades. Taking note of that, an offer was made by counsel for the petitioner that he is ready to discharge any reasonable liability, if this land is sold to him. Accordingly, counsel for the Gram Panchayat was asked to get instructions.

On 16.08.2011, Sarpanch, Gram Panchayat, appeared in Court and stated that it is for the Government to sell or not to sell the land in dispute, to the petitioner.

Today also, it is stated by counsel for the petitioner that land falling under the house of the petitioner, measuring about 1 kanal along with access to the main street/road, be sold to him and rest of the land, he shall vacate.

We are of the opinion that proposal made by counsel for the petitioner will benefit both the parties.

Shri Prabhakar is directed to get instructions from the Gram Panchayat. Gram Panchayat to consider the proposal in a very sympathetic manner.”

(5) Thereafter also, this Court continued to persuade the parties to amicably resolve the issue as the petitioner had admittedly constructed a residential house on the land approximately measuring 2 kanal out of 7 kanal total land.

(6) Learned counsel for the respondent, on instructions, fairly stated that the Gram Panchayat would abide by the decision that may be taken in terms of the order dated 22.10.2013 provided that the petitioner agrees to pay the current market price as may be determined by the Collector. We, therefore, directed the Deputy Commissioner-cum-Collector Kapurthala to provide us the estimated market value/Collector's rate for the purpose of resolving the issue. In compliance thereto, the Collector filed an affidavit dated 19.11.2014 followed by yet another affidavit which has been filed today along with the details of the approximate market value of the land from 1986 onwards at the rate of per acre and per marla.

(7) Since the Collector has determined the approximate market price of the land on yearly basis by adopting a fair, just and reasonable criteria, we find no basis to differ with the rates so determined.

(8) The question that requires determination is as to which year's market price, the petitioner be asked to pay?

(9) Learned counsel for the petitioner would submit that the rates as prevailing in the year 1986-1991 when the eviction proceedings were concluded be applied, learned counsel for the Gram Panchayat urges to apply the current market value.

(10) We are of the considered view that it would be fair, rational and equitable to direct the petitioner to pay the market value as it prevailed in the year 2010 for the land measuring 1K -18M where the residential house has been constructed i.e. to be rounded off to 2 kanal. This was the year when petition was listed for final hearing. According to the Collector, Kapurthala, the approximate market price of residential plot in the village was @ ₹33,000 per marla in that year. We thus direct the petitioner to deposit the price of land measuring 2 kanal at the afore-stated rate within *three months* from the date of receipt of a certified copy of this order and upon doing so, necessary permission from the State Government shall be deemed to have been granted and consequently, the Gram Panchayat shall execute the sale deed.

(11) As regards the remaining vacant land measuring 5 kanal which is agricultural land (and not *gair mumkin*), the petitioner shall have the option to purchase the same from the Gram Panchayat @ ₹11,25,000/- per acre, namely, the rate of agricultural land in the year 2014 as certified by the Collector. If the petitioner decides to purchase

the remaining land measuring 5 kanal at the above-stated rate, he would give his consent by way of an affidavit to the Sarpanch of the Gram Panchayat as well as the BDPO and on doing so, he shall be at liberty to deposit the sale consideration within six months to commence from the date of expiry of three months' period granted to him for the deposit of the price of 2 kanal land. On deposit of the aforesaid sale consideration for the land measuring 5 kanal, permission from the State Government shall be deemed to have been granted and the Gram Panchayat shall execute the sale deed in the same manner as it has been directed to do so on purchase of 2 kanal land. However, if the petitioner does not deposit the sale consideration for any piece of land, in that event, the eviction order would be deemed to have attained finality.

(12) The writ petition stands disposed of in above terms.

(Surya Kant)
Judge

26.02.2015
vishal shonkar

(Raj Mohan Singh)
Judge