

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Civil Writ Petition No.26583 of 2015
Date of Decision: December 21, 2015

Mahinder Singh and othersPetitioners

versus

Director, Rural Development and Panchayats, Punjab and
othersRespondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE P.B.BAJANTHRI.

Present: Mr.Vikram Singh, Advocate, for the petitioners.
Mr.Rajesh Bhardwaj, Additional AG, Punjab.
Ms.Satpreet Grewal Kapila, Advocate,
for the caveator-respondent No.3.

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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?

Surya Kant, J. (Oral)

Notice of motion.

On our asking, Mr.Rajesh Bhardwaj, learned
Additional Additional Advocate General, Punjab, accepts notice
on behalf of respondent Nos.1 & 2.

Let two copies of the writ petition be supplied to
the State counsel during the course of day failing which this
order shall be automatically recalled and the writ petition shall
be deemed to have been dismissed for non-prosecution.

Respondent No.3-Gram Panchayat is on caveat.
Ms.Satpreet Grewal Kapila, Advocate accepts notice on its
behalf.

In view of the nature of order which we propose to pass, it is not necessary to seek any counter-reply from the respondents at this stage.

The petitioners have laid challenge to the order dated 21.02.2012 (P-13) passed by the Director, Rural Development and Panchayats-cum-Commissioner (Shamlat Land), Punjab under the Punjab Village Common Lands (Regulation) Act, 1961, whereby the appeal preferred by respondent No.3 against the order of the Collector dated 16.02.2011 has been allowed and the petitioners' petition under Section 11 of the Act, which was allowed by the Collector, has been dismissed.

Heard learned counsel for the parties and the record perused.

In our considered view, the appellate order does not call for any interference for more than one reasons. Firstly, there is an inordinate delay of more than 3½ years in filing the writ petition and the same has not been satisfactorily explained. Secondly, the Appellate Authority has returned a firm finding of fact after appreciating entries in the revenue records that the subject land is a gair-mumkin pasture and/or gair-mumkin 'pond' and thus is reserved for common purposes. It, therefore, vests in gram panchayat.

Faced with this, learned counsel for the petitioners relies upon Rules 4 & 5 of the Punjab Village Common Lands (Regulation) Rules, 1964 whereunder such like land which is in abadi deh and where houses are built or constructions raised, can be sold subject to fulfillment of the conditions prescribed therein.

We are inclined to accept the petitioner's claim to the limited extent that let the matter re: sale of land to them in terms of the above-stated Rules be considered. The writ petition is thus disposed of with a direction that the petitioners may approach the Gram Panchayat under the above-stated Rules within two weeks of receipt of copy of this order. The Gram Panchayat shall consider their request sympathetically subject to fulfillment of the conditions as prescribed in the Rules and in case the Gram Panchayat passes any resolution in this regard, the Competent Authority shall consider the same for according necessary approval within a period of three months from the date of passing of such resolution.

Till such an exercise is undertaken, status-quo re: demolition and further construction shall be maintained.

Ordered accordingly.

Dasti.

[SURYA KANT]
JUDGE

December 21, 2015
mohinder

[P.B.BAJANTHRI]
JUDGE