

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 2898 of 2015

Date of decision:- 26.05.2015

Kura Singh and others

..... Petitioners

Versus

State of Punjab and others

..... Respondents

**CORAM : HON'BLE MR.JUSTICE RAJIVE BHALLA
HON'BLE MR. JUSTICE AMOL RATTAN SINGH**

Present:- Mr. K.S.Chahal, Advocate, for the petitioners.

Mr. Ashwani Talwar, Addl. Advocate General, Punjab
with Mr. Sunil Vashisth, AAG, Punjab for respondents
No. 1 to 3 and 7.

Mr. Munish Jolly, Advocate, for respondent No. 4.

Mr. T.S.Khaira, Advocate, for respondent No. 5.

Ms. Tarunpreet Kaur, Advocate, for respondent no. 6.

RAJIVE BHALLA, J (ORAL).

The petitioners pray for issuance of a writ of mandamus directing respondents no. 1 to 3 to take action against respondent No. 4, who is allowing respondent No. 5 to illegally mine earth from land measuring 313 kanals 15 marals 'Gau Charaand' (grazing ground) situated in Sinhpur, the Be-Cherag Mauza of village Behlopur.

Taking cognizance of the submissions, notices were issued to the respondents vide order dated 20.02.2015 and the Deputy Commissioner, SAS Nagar, Mohali, was granted a week's time to submit a report.

Mr. Tejinderpal Singh Sidhu, Deputy Commissioner, SAS Nagar, has filed an affidavit on the basis of a report prepared by the Sub-Divisional Magistrate, SAS Nagar, Mohali. A relevant extract from the affidavit reads as under:-

Findings on the issue of illegal Mining.

“Along with the spot inspection of shamlat land at Sinhpur (Be cherag mauja) the statements of residents of village Behlolpur, Sarpanch Sh. Harbhajan Singh, three Panches namely Sh. Gurmeet Singh, Sh. Jai Krishan Lal and Sh. Ashok, Patwari Halqa village Behlolpur Sh. Parkash Singh and Panchayat Secretary Sh. Surinderpal Singh of village Behlopur and eight other local resident name Amrik Singh S/o Sh. Ram Kishan, Kesar Ram S/o Mukti Prasad, Jasvir Singh S/o Parsin Singh, Jethu S/o Sh. Ganesha, Tarsem Lal S/o Valaiti Ram, Pal Singh S/o Sh. Sarban Singh and Gurpreet Singh S/o Sh. Jaspal Singh were also recorded. As per the statements given by them no mining has undertaken in the village Sinhpur (Be cherag mauja). The spot inspection revealed that though there is variation in the level of land however no mining activity has been done. It is very difficult to ascertain that the pictures enclosed by petitioner as annexure P-7 in present writ petition are

specifically of village Behlolpur. However the photographs taken during spot inspections are attached for kind perusal of this Hon'ble Court."

Findings on the issue of cutting of trees

The record of the Gram Panchayat, Behlolpur was perused, which reveals that a resolution dated 02.12.2013 had been passed by the Gram Panchayat, village Behlolpur regarding the cutting of trees. The resolution read as follows:-

"There is no source of income of Gram Panchayat village Behlolpur. Gram Panchayat have trees on Shamlat land at Sinhpur (Be-cherag mauja) which is a part of village Behlolpur. It has been decided by the Gram Panchayat that by selling some trees income can be earned and development works can be done" (Resolution passed by Gram Panchayat, Behlolpur is annexed as Annexure-I)

The District Development and Panchayat Officer SAS Nagar after getting this request from the Gram Panchayat, Behlolpur through Block Development and Panchayat Officer, Majri wrote a letter to District Forest Officer, SAS Nagar vide No. 5551 dated 20.02.2014 for the marking and assessment of these trees. District Forest Officer SAS Nagar marked these trees and gave his assessment report vide letter no. revenue 1087 dated 14.05.2014 to the District Development and Panchayat Officer SAS Nagar. In his report the Forest Department assessed the value of these trees as Rs. 4,07,846/-, as reserve price.

Then the Gram Panchayat, Behlolpur

issued a public notice through Ajit a daily news paper dated 31.07.2014 for auction of these trees. In this auction on 20.08.2014 around 100 bidder took part in this auction and highest bid was Rs. 5,46,000/-. This auction program was organized at village's Dharamshala. The amount of Rs. 5,46,000/- as obtained from this has been deposited in the account of Panchayat. (Report of the inquiry conducted by Sub-Divisional Magistrate, SAS Nagar Mohali is attached as annexure 2)

A perusal of the report reveals that no mining is being carried out whether legally or illegally, in 'be cherag mauja' Sinhpur, of village Behlolpur and the trees allegedly felled by respondent No. 6 were sold by the Gram Panchayat.

In view of the affidavit and report, no further orders are required to be passed, at this stage, except to the extent of directing the Deputy Commissioner, the Sub Divisional Magistrate, the Block Development and Panchayat Officer and the District Mining Officer, SAS Nagar, to ensure that no person mines any minor mineral in District Mohali without a valid licence/permit.

Disposed of accordingly.

(RAJIVE BHALLA)
JUDGE

(AMOL RATTAN SINGH)
JUDGE

26.05.2015
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