

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

CWP No.5231 of 2015.
Decided on:-26.11.2015.

Daya Ram.

.....Petitioner.

Versus

State of Haryana and others

.....Respondents.

***CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE HARI PAL VERMA.***

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Abhinav Sood, Advocate for
Mr. Vikram Singh, Advocate
for the petitioner.

Ms. Kirti Singh, Deputy Advocate General, Haryana
for respondents No.1 to 3.

Mr. S.P. Chahar, Advocate
for respondent No.4-Gram Panchayat.

SURYA KANT, J. (ORAL)

The order dated 6.1.2015 passed by the Deputy Commissioner, Sonapat, rejecting the claim of petitioner and his brothers for execution of the sale deed of the land owned by the Gram Panchayat situated in village Mandora, Block Kharkhoda, District Sonapat, is under challenge in the instant writ petition.

2. The Deputy Commissioner has turned down the claim of petitioner on the basis of Rule 12(4) of the Punjab Village Common Lands

(Regulation) Rules, 1964 (hereinafter mentioned as 'the 1964 Rules') whereunder the land upto 200 Sq. yards can be sold on the market value provided that a house was constructed on such land before 31.3.2000. The finding given is that no house has been constructed by the petitioner at the site and the land in dispute is more than 200 Sq. yards.

3. We have heard learned counsel for the parties and perused the record.

4. In our considered view, the order passed by the Deputy Commissioner, Sonapat is palpably illegal and an abortive attempt to set at naught the order dated 23.6.1995/3.7.1995 (Annexure P-1) passed by his superior authority, namely, the Director of Panchayats, Haryana. Vide the said order, the Director of Panchayats, Haryana in exercise of powers conferred under Rule 8(3) of the 1964 Rules which was the Rule in force at that time, accepted the resolution dated 14.1.1994 passed by the Gram Panchayat of village Mandora and approved the sale of land measuring 665 Sq. yards in favour of the petitioner and his brothers @ Rs.40/- per Sq. yard besides Rs.4,000/- as composition fee.

5. It is an admitted fact that the sale price as well as the composition fee fixed by the Director of Panchayats, Haryana was duly deposited by the petitioner and his brothers in the account of Gram Panchayat maintained in the Sonapat Central Co-operative Bank Limited, Branch Kharkhoda vide receipt dated 25.7.1995 (Annexure P-2).

6. Once the Gram Panchayat had passed a resolution which was duly approved by the competent authority and the petitioner also acted upon that decision and changed their position by depositing the entire sale consideration, the only limited issue to be decided by the Deputy Commissioner, Sonapat in compliance of our order dated August 22, 2014 (Annexure P-5), was as to why the sale deed could not be executed in favour of the petitioner or his brothers.

7. The Deputy Commissioner, Sonapat ought to have kept in view that Rule 12(4) of the 1964 Rules came to be inserted in the Rules in the year 2011 only and this Rule was not existing at the time when the Director of Panchayats, Haryana passed the order dated 23.6.1995/3.7.1995 (Annexure P-1). At that time, the Rule which held the field was Rule 8(3) of the 1964 Rules and the same was duly followed by the then competent authority.

8. The Deputy Commissioner was also expected to keep in mind that being inferior in rank and status, he cannot review, recall, set aside or nullify the order dated 23.6.1995/3.7.1995 passed by his superior authority. Otherwise also, there is no express power of 'review' vested under the Act.

9. The Deputy Commissioner, Sonapat, thus, has travelled beyond the scope of directions issued by this Court on August 22, 2014. As of now, we will not say more than this. His order being ex-facie illegal and without jurisdiction, the same is set aside.

10. The Deputy Commissioner, Sonapat is accordingly directed to reconsider the matter in terms of this Court's order dated August 22, 2014, and keeping in view the order dated 3.7.1995 passed by the Director of Panchayats, Haryana and the receipt dated 25.7.1995 whereby the petitioner and his brothers had deposited the full sale consideration of Rs.30,600/- (including composition fee). The appropriate order shall be passed within a period of three months from the date of receipt of certified copy of this order.

11. Disposed of in the above terms.

12. A copy of this order be given to the learned State counsel for information and necessary action.

(SURYA KANT)
JUDGE

November 26, 2015
Yag Dutt

(HARI PAL VERMA)
JUDGE