

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

[1] Civil Writ Petition No.5603 of 2015
Date of Decision: September 19, 2015

M/s Delhi Towers & Estates Pvt. Ltd.Petitioner
versus
State of Haryana and othersRespondents

[2] Civil Writ Petition No.6688 of 2015

M/s Delhi Towers & Estates Pvt. Ltd.Petitioner
versus
State of Haryana and othersRespondents

[3] Civil Writ Petition No.6689 of 2015

M/s Delhi Towers & Estates Pvt. Ltd.Petitioner
versus
State of Haryana and othersRespondents

[4] Civil Writ Petition No.6690 of 2015

M/s Delhi Towers & Estates Pvt. Ltd.Petitioner
versus
State of Haryana and othersRespondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE JASPAL SINGH.

Present: Mr.Vinod S.Bhardwaj, Advocate, for the petitioner(s)
Mr.Anil Mehta, Deputy AG, Haryana.
Mr.Neeraj Gupta, Advocate, for respondent No.5.

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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)

This order shall dispose of Civil Writ Petition
Nos.5603, 6688, 6689 and 6690 of 2015 as common questions
of law and facts are involved in these cases.

[2] The core issue raised in these cases is whether the land purchased by the petitioner falls within the revenue estate of village Raisina, Tehsil Sohna, District Gurgaon or it falls within the revenue estate of village Gairatpur Bas of the same Sub Division? If the first question is answered in affirmative and the subject land is held within the revenue estate of village Gairatpur Bas and not Raisina, yet another question that requires determination would be whether such land was owned by the vendors from whom the petitioner had purchased it and does it vest in the Gram Panchayat?

[3] It is obvious that the demarcation and dimensions of the parcels of land purchased by the petitioners are also required to be determined and carried out so as to resolve the dispute between them and the Gram Panchayat of village Gairatpur Bas.

[4] The controversy raised before this Court is the result of eviction proceedings initiated by the Gram Panchayat of village Gairatpur Bas under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961, as applicable to the State of Haryana (for short, 'the 1961 Act') against the petitioners as they are alleged to be in unauthorized occupation of the Gram Panchayat land.

[5] Unfortunately, the revenue authorities have not determined the demarcation of disputed land comprising two revenue estates of villages Gairatpur Bas and Raisina. It is only after such demarcation that the question whether the land purchased by petitioners from the vendors of village Raisina is actually located within the revenue estate of that village or it overlaps in the revenue estate of village Gairatpur Bas, can be determined. Until such exercise is undertaken in accordance

with the principles of natural justice, it is difficult to hold the petitioners to be in unauthorized occupation of the Gram Panchayat land. Conversely, their claim that they have not encroached upon the land of village Gairatpur Bas, also cannot be accepted without such demarcation.

[6] In such a fact-situation and having heard learned counsel for the parties who are also ad-idem, we dispose of these writ petitions with the directions issued hereinafter.

[7] The Deputy Commissioner, Gurgaon is directed to constitute a team comprising;

- (i) District Revenue Officer, Gurgaon or Senior Most Tehsildar of Gurgaon district;
 - (ii) Block Development and Panchayat Officer of the block in which both the villages fall;
 - (iii) Consolidation Officer from the Department of Consolidation;
 - (iv) Field Kanungo;
 - (v) Forest Range Officer;
 - (vi) Patwaries of both the villages alongwith complete revenue records;
- II. The above-stated team shall firstly, after going through the entire revenue and consolidation records, determine the total revenue estate of each village, if already not determined, after comparing the pre and post consolidation numbers.
 - III. Thereafter, the revenue boundaries of both the villages shall be determined/demarcated at the site.
 - IV. The location of the land purchased by the

petitioners shall be measured and demarcated at the spot to find-out whether it exclusively falls within the revenue estate of village Raisina or it overlaps the revenue estate of village Gairatpur Bas.

[8] The petitioners as well as the Gram Panchayats of villages Raisina and Gairatpur Bas shall be associated at all stages while conducting the above-stated proceedings.

[9] If need be, the assistance of retired revenue officials who are well conversant with the area, may also be obtained.

[10] On completion of the above-stated exercise, if it is found that the petitioners have encroached upon any area within the revenue estates of village Gairatpur Bas which vests in the Gram Panchayat of that village, they shall have to vacate such area at their own within three months, failing which the Gram Panchayat shall be at liberty to initiate proceedings under Section 7 of the 1961 Act.

[11] If the Gram Panchayat of village Gairatpur Bas is required to initiate eviction proceedings, we direct the Assistant Collector, 1st Grade, Gurgaon to conclude the same within four months from the date of institution of such proceedings. However, if it is found that the land purchased by the petitioners is within the revenue estate of village Raisina, the proceedings under Section 7 of the 1961 Act initiated by the Gram Panchayat of village Gairatpur Bas would be rendered infructuous.

[12] Notwithstanding the outcome of these proceedings, the Divisional Forest Officer, Gurgaon and the Deputy Commissioner, Gurgaon are directed to ensure that

the notifications issued under different Statutes regulating the 'non-forestry activities' are meticulously complied with and any inaction in this regard shall be viewed seriously.

[13] The proceedings initiated under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 before the Director, Consolidations, shall be kept in abeyance till the above-stated proceedings are concluded.

[SURYA KANT]
JUDGE

September 19, 2015
mohinder

[JASPAL SINGH]
JUDGE