

*IN THE HIGH COURT FOR THE STATES OF PUNJAB
AND HARYANA AT CHANDIGARH.*

CWP No. 13883 of 1994. [O&M]
Date of Decision: 11th January, 2016.

Ishwar Singh & Ors.

Petitioners through
Mr. Sudhir Mittal, Advocate

Versus

State of Haryana & Ors.

Respondents through
Ms. Kirti Singh, Deputy AG, Haryana
Mr. Silak Ram Hooda, Advocate, for
respondent No.3.
Mr. Navneet Singh, Advocate, for
respondent No. 5.

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

- 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]

The petitioners are residents of village Janti Khurd, District Sonapat. They assail the order dated 02.09.1994 [P-5] whereby the State Government accorded its approval to the resolution passed by the Gram Panchayat of their village for the exchange of its land with that of respondent No. 3.

[2]. Before adverting to the facts, it may be noticed at the outset that this Court on 28.09.1994 stayed operation of the above stated Government order and further directed that the "possession not to be transferred".

[3]. On 22.05.1995, counsel for the parties were heard and stay was directed to continue which is operative till date.

[4]. Coming back to the facts of the case, there appears to be no quarrel that the Gram Panchayat's land comprising Khasra Nos.

23/25 and 24/21/1, measuring 8 kanals 10 marlas is a corner site abutting the Outer-Ring Road of Delhi, and the approach road coming towards that Outer-Ring Road from village Janti Khurd. As against it, the land of respondent No. 3 comprising Khasra No. 76/5/1 was measuring 5 kanals 6 marlas. The said land is far away from Delhi Outer-Ring Road but is near to the *abadi-deh* of the village.

[5]. The then Gram Panchayat headed by respondent No. 4 – Raj Singh Sarpanch passed a resolution dated 02.11.1992 and again dated 28.06.1993 for the exchange of the above stated two parcels of land. As the prior approval of State Government is required for the exchange of *shamlat* land under Rule 5 of the Punjab Village Common Lands [Regulation] Rules, 1964, the matter was forwarded to the State Government, who vide order dated 07/08.09.1994 accorded its approval to the above mentioned exchange.

[6]. As noticed in the opening paragraph, the petitioners who are residents of the village, challenged the above stated order of the State Government and its operation as well as exchange of possession was stayed by this Court.

[7]. We have heard learned counsel for the parties at considerable length and gone through the record.

[8]. It is pointed out by them that during the pendency of this writ petition, the subject land has been acquired by the State Government.

[9]. The only question that survives is thus if the exchange is approved, then respondent No. 3 can stake his claim for compensation but if the order of the State Government is set aside,

in that case, the compensation will go to the Gram Panchayat, whereas the land near village *abadi deh* will have to be restored to respondent No. 3.

[10]. In the above said context, we have given our thoughtful consideration to the submissions and are of the view that the resolution passed by the Gram Panchayat as well as decision of the State Government according its approval are detrimental to the interest of the inhabitants of the village. We say so for the reasons that firstly, the total area of the Gram Panchayat land is much more than the land offered by respondent No. 3 in exchange. Secondly, the Gram Panchayat land is abutting the Outer-Ring Road of Delhi and is highly valuable being useful for commercial or institutional purposes, as compared to land given to it near *abadi* which can be used only for residential and/or miscellaneous purpose. Thirdly, there appears to be conflict of interest between the Gram Panchayat and its Sarpanch – respondent No. 4 who was instrumental behind the resolution of exchange. The petitioners have disclosed the Pedigree-table and it appears that the then Sarpanch and respondent No. 3 had their lineal to their common ancestor – Tulsi. It, thus, appears that the resolution lacked the desired objectivity. Fourthly, the Gram Panchayat has later on taken a complete somersault and has resolved for cancellation of the exchange. Learned counsel for the Gram Panchayat categorically asserts that the resolution passed by the then Gram Panchayat was not in the interest of residents of the village and subsequently the Gram Panchayat has repeatedly resolved to cancel the subject exchange. Fifthly, the land has

meanwhile been acquired and since the land of Gram Panchayat was more than the land of respondent No. 3, and keeping in view its strategic location, there is every likelihood that it has fetched a better market value. It would thus be in larger public interest that the resolution as well as approval of the State Government are annulled and Gram Panchayat is allowed to receive compensation of its acquired land. Sixthly, the resolution of the Gram Panchayat or the approval of the State Government have not seen the light of the day as operation of that order was stayed by this Court and transfer of possession was expressly prohibited. The said stay is operative till date.

[11]. For the reasons aforementioned, the writ petition is allowed. The resolution dated 02.11.1992 [P-2] and the consequential approval order dated 02.09.1994 [P-5] of the State Government are set aside.

(SURYA KANT)
JUDGE

January 11, 2016.
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(P.B.BAJANTHRI)
JUDGE