

IN THE HIGH COURT OF PUNJAB AND HARYANA, AT CHANDIGARH

CWP No.9516 of 1994

Date of Decision : 16.3.2016

Chander Bhan and another

..Petitioners

Vs.

Commisioner, Rohtak Division and others

..Respondents

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

Present: Mr. Ramesh Hooda, Advocate for the petitioners.

Mr. Lakshman Sharma, Advocate for respondent No.5.

Surya Kant, J.(Oral)

The petitioners and the respondents are residents of village Badwasani, Tehsil and District Sonapat. The dispute regarding ownership and possessory rights over a residential plot between the petitioners and Gram Panchayat of their village the later being supported by respondent No.5, is the hallmark of this litigation which originated in the year 1977.

The order now under challenge is dated 13.6.1994 passed by Commissioner, Rohtak Division (Annexure P-4) holding that the petitioners are not to be allowed to retain the area other than *Pacca Kotha* constructed by them including the boundary wall and as regards the remaining area, the matter was remanded to the Collector, Sonapat to undertake a fresh trial in accordance with Section 7 of Punjab Village Common Land (Regulations) Act, 1961 (for short 'the Act') as applicable to the State of Haryana.

Suffice it to mention that the claim of the petitioners before the Authorities was that three residential plots including the disputed one were allotted to them during the consolidation but the Gram Panchayat as well as respondent No.5 have been disputing such a claim, as according to them, the plot in dispute was never allotted to the petitioners and they have unauthorisedly occupied the same. The Collector turned down the Gram Panchayat's petition for eviction against which respondent No.5 preferred a revision petition which was allowed by the Commissioner, Rohtak Division vide the impugned order.

It may be mentioned that feeling aggrieved against the remand order, the petitioners approached this Court on 20.7.1994 and further proceedings were stayed. Subsequently, status quo regarding possession was also directed to be maintained.

We have heard learned counsel for the parties at a considerable length and have also gone through the case file carefully.

In our considered view, the scope of the remand order passed by the Commissioner Rohtak Division can be enlarged with a view to do substantial justice to the parties and bring this litigation to an end. We are, thus of the view that the Collector is required to determine the following substantial questions:

- (i) How many residential plots were allotted to the petitioners/their families during consolidation?
- (ii) If three plots were allotted, whether or not the plot in dispute was also amongst those three allotted plots?
- (iii) If the plot in dispute was not allotted to the petitioners, what is the total area of the plot in dispute?

(iv) Since the plot in dispute has also been utilised by the petitioners as an integral part of their residential compound, namely, partly as open courtyard at rear and front side of the structure, is there any legal impediment against the sale of such open area to the petitioners keeping in view the principles laid down in Rule 12(4) of the Punjab Village Common Land (Regulations) Rules, 1964 as applicable to the State of Haryana?

It goes without saying that if it is found that the plot in dispute is found to have not been allotted to the petitioners, the direction to determine its 'market price' and then sell the same to the petitioners has been issued keeping in view the fact that the house was constructed way back in the year 1955 and since then the petitioners are in possession of the said plot. We thus, direct that if need be, the Rule may be relaxed to some extent for giving effect to the above direction. The Collector shall pass the appropriate orders within a period of six months. The parties are directed to appear before the Collector Sonapat on 5.4.2016.

Disposed of.

(Surya Kant)
Judge

(P.B.Bajanthri)
Judge

16.3.2016
Meenu