

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Civil Writ Petition No.11995 of 2014

Date of Decision: May 18, 2016

Balwan Singh and anotherPetitioners

versus

Commissioner, Hisar Division, Hisar and others

.....Respondents

**CORAM:HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE A.B.CHAUDHARI.**

Present: Mr.Anurag Jain, Advocate, for the petitioners.
Ms.Kirti Singh, Deputy Advocate General, Haryana.
Mr.Parshant Sethi, Advocate for respondent No.4.

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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)

The instant writ petition is directed against the orders dated 11.03.2014 and 23.05.2014 whereby the petitioners have been ordered to be evicted from the suit land. These orders have been passed at the instance of the Gram Panchayat of their village, namely, respondent No.4.

[2] For the appropriate resolution of the controversy, the following issues arise for determination:-

- (i) Whether the land in dispute was allotted by the Rehabilitation Department, Haryana, on 27.01.1976 to Sham Dass, Gurdual, Kishan Lal and Avinashi sons of Ganga Ram?

- (ii) If so, whether the Competent Authority in Rehabilitation Department had passed any order for execution of the sale deed dated 27/28.01.1976?
- (iii) Whether the allottees were actually eligible for such allotment under the law?
- (iv) Whether at the time of allotment or execution of the sale deed, the subject-land duly vested in the Rehabilitation Department or it was *shamlat deh* and deemed to have vested in Gram Panchayat?
- (v) Whether the petitioners or proforma respondents are *bonafide* purchasers from the original allottees?
- (vi) What is the effect of the amendment inserted in the year 1996 whereby Clause (ii-a) has been added retrospectively w.e.f. 09.07.1985 in Section 2(g) of Punjab Village Common Lands (Regulation) At, 1961, as application to the State of Haryana? (in short, 'the 1961 Act').
- (vii) Whether, as a legal effect of the above-stated amendment, the order dated dated 30.04.1987 passed in Case No.15/VCL (Tara Chand and others versus Gram Panchayat, Mohila and others) dismissing the suit filed under Section 13-A of the 1961 Act has been rendered

ineffective and redundant?

[3] Unfortunately, none of these questions have been gone into by the authorities vide the impugned orders, except making a passing reference to the facts or the legal provisions.

[4] Needless to say that the petitioners' claim to be the true owners of suit land, being the subsequent vendees from the original allottees, or that of the Gram Panchayat that the suit land vests in it being *shamlat deh*, can be effectively adjudicated only by answering these questions. Since there need to be proper appreciation of evidence to determine these questions, it is not expedient or desirable for this Court to express any views on these issues which can firstly be determined by the authorities themselves.

[5] For the reasons afore-stated, we allow this writ petition; set-aside the orders dated 11.03.2014 and 23.05.2014 and remit the case to the Collector, Bhiwani, for determination of the above-mentioned issues. It is directed that while the Collector shall be at liberty to formulate additional issues at the instance of the parties, but the issues as framed above, shall have to be answered one by one at the time of decision of the controversy. If need be, the parties may be accorded maximum two opportunities each to lead additional evidence in support of their respective claims. The Collector is directed to decide the case within a period of six months from the date of receiving a certified copy of this order.

[6] Till then, the parties are directed to maintain *status-quo* re: possession, further alienation and change of nature of the suit land.

[7] The parties are directed to appear before the Collector, Bhiwani, on 04.07.2016.

**[SURYA KANT]
JUDGE**

May 18, 2016
mohinder

**[A.B.CHAUDHARI]
JUDGE**