

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.10559 of 2016 (O&M)

Date of Decision: 25.05.2016

Jaipal & Ors.

... Petitioners

VS.

State of Haryana & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE A.B. CHAUDHARI

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?

Present: Mr. Rajesh Khandelwal, Advocate for the petitioner

SURYA KANT, J. (Oral)

(1) The petitioners appear to have encroached upon the Gram Panchayat land bearing Khasra Nos.200 which is part of the village pond and also Khasra No.341 stated to be a public passage. The eviction orders were passed against them which are under challenge in appeal. Meanwhile, they approached this Court in CWP No.3976 of 2015 and vide order dated 28.05.2015 this Court disposed of the same with a direction to the Gram Panchayat to take a decision on their application moved under Rules 12 of the Punjab Village Common Land (Regulations) Rules, 1964 as applicable to the State of Haryana.

(2) Sub-Rule (4) of Rules 12 of 1964 Rules enables an encroacher of the Gram Panchayat land to purchase it at market price subject to the conditions prescribed therein, provided further that the Gram Panchayat passes a resolution for such sale. Prior approval of the Deputy Commissioner is also required. Sub-Rule 4 of Rule 12 *ibid* reads as follows:-

12. Purposes for which land may be sold. Sections 5 and 15(2)(f)—

(1) xxx xxx
 (2) xxx xxx
 (3) xxx xxx
 (4) *The Gram Panchayat may with the prior approval of the State Government, sell its non-cultivable land in shamilat deh to the inhabitants of the village who have constructed their houses on or before the 31st March, 2000, not resulting in any obstruction to the traffic and passers-by, along with open space upto 25% of the constructed area or any appurtenant area upto a maximum of 200 square yards at not less than collector rate, floor rate or market rate, whichever is higher.”*

(3) The Gram Panchayat vide resolution dated 16.07.2015 (P15) has turned down the petitioners’ claim observing that the land of village ‘pond’ or ‘public passage’ cannot be sold, more-so when the petitioners own their residential houses and vacant plots in the village.

(4) Now when the new Sarpanch has issued notice for the removal of encroachment that the petitioners have laid challenge to the above-stated resolution.

(5) In our considered view, no case to interfere with the resolution passed by the Gram Panchayat is made out. The petitioners not only do not fulfill the eligibility conditions as prescribed under the Rules, there is no legally vested right accrued in their favour to seek sale of the Gram Panchayat land. Similarly, the Rules do not contemplate to compel the Gram Panchayat to pass a resolution in their favour.

(6) However, if there is any factual dispute with regard to the eligibility of the petitioners, they ought to have approached the Deputy

Commissioner who is the competent authority to take a final decision under

the Rules. At best, the representation/appeal, if any pending before the Deputy Commissioner, need to be decided in accordance with law at the earliest.

(7) With liberty afore-mentioned, the writ petition is dismissed.

(Surya Kant)
Judge

25.05.2016
vishal shonkar

(A.B. Chaudhari)
Judge