

**HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.1502 of 2016 (O&M)

Date of Decision: 25.01.2016

India Infrastructure and Logistics P.Ltd. & Ors. ... Petitioner

VS.

FC/PS to Govt. of Haryana & Ors.

... Respondents

.....

CORAM: Hon'ble Mr.Justice Surya Kant

Hon'ble Mr.Justice Harinder Singh Sidhu

Present: Mr. RS Rai, Senior Advocate with
Mr. Harsh Bungar, Advocate for the petitioner

SURYA KANT, J. (Oral)

(1) Notice of motion to respondents No.1 to 7. On our asking, Ms. Kirti Singh, DAG Haryana accepts notice on their behalf. Since no order prejudicial to the interest of the Gram Panchayat – respondent No.8 is being passed, there is no necessity to issue notice to it or to seek reply/affidavits from other respondents at this stage.

(2) The petitioner-company exchanged its land measuring 23 acre 2 kanal 3 marla situated within the revenue estate of village Chulkana, Tehsil Samalkha, District Panipat in lieu of Gram Panchayat land measuring 22 acre 5 kanal. After approval from the State Government, the Exchange Deed was executed on 09.07.2008. As per the terms and conditions of the exchange, the petitioner-company was obligated to construct (i) a Sports

Stadium; (ii) a Community Centre; and (iii) an Industrial Training Institute on the exchanged land free of cost for the benefit of the inhabitants of the village. In addition, the petitioner was required to provide employment to 20 villagers.

(3) In the instant writ petition, the petitioner has come up with a long story to explain as to how and why the terms and conditions of the Exchange Deed could not be honoured by it. The fact of the matter is that neither any Community Centre nor any Institute or Sports Stadium has been constructed in the village. The petitioner also did not set up the project for which the land was exchanged and resultantly, none from the village could get employment. The documents on record would indicate that the repeated intervention made by Deputy Commissioner also did not yield any result.

(4) It further transpires that the State Government finally issued a show cause notice on 26.10.2012 in exercise of its powers under Section 5-B(2) of the Punjab Village Common Land (Regulations) Act, 1961 as applicable to the State of Haryana asking the petitioner to show cause as to why the Exchange Deed be not cancelled. The petitioner submitted its reply but no decision thereupon appears to have been taken by the State Government.

(5) Meanwhile, there have been civil litigations also, firstly by the residents of the village who opposed the Exchange Deed

and now a civil suit has been instituted by the Gram Panchayat to restrain the petitioner from alienating and/or creating third party rights on the exchanged land.

(6) At this juncture, the petitioner seeks a direction to the State Government to take a final decision on the show cause notice served on it in the year 2012.

(7) Having heard learned counsel for the petitioner at a considerable length and on perusal of the documents appeared with this petition, it appears to us that since the State Government had initiated proceedings under Section 5B(2) *suo motu*, it would be expedient and in the interest of all the parties if those proceedings are taken to a logical conclusion.

(8) We thus without expressing any views on merits direct the State Government to take an appropriate decision but after hearing the Gram Panchayat as well. These directions, however, shall not be construed to be detrimental to the Gram Panchayat's rights, if any, to seek compensation or raise special claim against the petitioner for the inordinate delay in providing the amenities to which the petitioner agreed to at the time of execution of Exchange Deed. If such claim(s) are raised by the Gram Panchayat, the State Government shall be equally obligated to determine the same in accordance with law. The Gram Panchayat shall be heard at every stage.

(9) Let appropriate orders be passed within four months from the date of receipt of a certified copy of this order.

(Surya Kant)
Judge

25.01.2016
vishal shonkar

(Harinder Singh Sidhu)
Judge