

COCP No.932 of 2015

:1:

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

COCP No.932 of 2015

Date of Decision: 21.03.2017

Umed Singh and others

...Petitioners

Versus

Ashok Kumar Meena and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

1. *Whether Reporters of the 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. Adarsh Jain, Advocate
for the petitioners.

Ms. Shubra Singh, Addl. A.G., Haryana
for the respondents.

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JASWANT SINGH, J. (Oral)

The petitioners, thirteen in number, are residents of Village Chandhut, Tehsil and District Palwal. They claim to be joint owners and in joint possession of agricultural land measuring 545 kanals situated in Revenue Estate of Village Gurwadi, Tehsil and District Palwal, although, it is contested by the State that the land in ownership with possession was measuring 372 kanals 04 marlas. It so transpires that pursuant to the Dixit Award and enactment and implementation of the Haryana and Uttar Pradesh (Alteration of Boundaries) Act, 1979 (hereinafter to be referred as the 1979 Act), upon fixation of permanent boundaries in place of fluctuating

boundaries as demarcated, the land owned by the petitioners fell to the share of farmers of UP. It is claimed by the State that the land in question was allotted to the farmers of UP in compliance of the order dated 17.08.2008 passed by the Hon'ble Supreme Court in **Ram Chand and others Vs. State of Haryana**, culminating into filing of COCP No.103 of 2002 in CWP No.91 of 2001 and CWP No.88 of 2002. Accordingly, Mutation No.841 dated 25.09.2008 was effected. Further, directions vide letter dated 12.09.2008 were issued for bestowing ownership rights with possession to the farmers of UP.

The petitioners by filing CWP No.14318 of 2010 before this Court laid challenge to the aforesaid Mutation No.841 dated 25.09.2008 as also the order dated 12.09.2008 passed by the Financial Commissioner, Haryana, whereby the ownership rights of the petitioners on the aforesaid land situated in Village Gurwadi were affected. The aforesaid writ petition alongwith other connected writ petitions with lead case bearing CWP No.8979 of 2009 got disposed of vide order dated 17.08.2011 (Annexure P-1) on the assurance given by the State that compilation and publication of the final records of rights of all the affected villages, including Village Gurwadi, would be completed within two years after the Settlement Officer completes consolidation proceedings in respect of the villages involved. The parties were directed to maintain status quo till completion of the process in terms of Section 32 of the Punjab Land Revenue Act, 1887 and preparation of final records of rights.

The present contempt petition has been filed by the petitioners with the allegations that although, the agricultural land belonging to them has been allotted to the farmers of UP and mutation effected in their favour,

however, as per the undertaking before this Court in the order dated 17.08.2011, no corresponding land has been allotted qua the claims of the petitioners.

Upon notice, an affidavit dated 15.07.2015 of Shri Ashok Kumar Meena, Deputy Commissioner, Palwal was filed. Relevant paras 3 and 6 of the reply read as under:-

“Para 3. That as per the report of Settlement Officer/District Revenue Officer, Palwal dated 10.07.2015, the notification no.133/21-1-RA/2011 dated 01.8.2011 was issued by worthy Commissioner, Gurgaon Division, Gurgaon for preparation of fresh record of rights under Section 32 of the Punjab Land Revenue Act, 1887 in respect of land in Dixit Award transferred from Uttar Pradesh State to Haryana State. As per notification "land records measuring 593 Bigha 3 Biswa of village Govind Garh, Tehsil Jevar, District Gautambudh Nagar were handed over to the State of Haryana but the said land was neither demarcated nor verified at that time and the record so received was also not authenticated on the basis of measurement. Now the said land is to be included in the revenue estate of village Gurwadi (Hadbast No.185) of Tehsil Palwal, District Palwal of Haryana State.”

In compliance of said notification and orders dated 17.08.2011 passed by this Hon'ble Court in CWP No.8979 of 2009 and other connected CWPs, the measurement of land pertaining to village Gurwadi (Hadbast No.185) was done. During the measurement, it was found that no land was available for

*settlement as per Dixit Award after consolidation of revenue estate of village Gurwadi, record of which was transferred to revenue department on 17.02.2011. Extra Asstt. Settlement Officer-cum-Naib Tehsildar, Palwal accordingly passed the order dated 09.07.2015 (copy attached as **Annexure R-1**).*

Further, Settlement Officer-cum-District Revenue Officer, Palwal has communicated the said order to the Commissioner, Gurgaon Division, Gurgaon vide memo No.523/SK dated 10.07.2015 for information and necessary directions in view of the notification dated 01.08.2011 vide which record of 593 Bigha 3 Biswa to be measured and for preparation of record order under Section 32 of Punjab Land Revenue Act, 1887 and order of Extra Asstt. Settlement Officer-cum- Naib Tehsildar, Palwal (CRO) dated 09.07.2015 as there is difference between the land mentioned in notification and measured land mentioned (Nil). (Copy of the same is attached as Annexure R-2).

Para 6. *That as far as the claim of petitioners is concerned, the land pertaining to village Gurwadi has already been mutated to the farmers of Uttar Pradesh vide mutation no.841 dated 25.09.2008. If the petitioners have any objection/grievances regarding the mutation they can avail remedy before the competent authority as per rule.”*

In view of the above, more so, from the order dated 09.07.2015 (Annexure R-1), it is evident that upon measurement during settlement (pre-consolidation stage), it was found that no land was available for settlement

as per Dixit Award after the area of Village Gurwadi had been transferred to the farmers of UP, thus, it is submitted that there is a short fall of 370 acres, 05 kanals and 15 marlas of land, which is non-existent at the site of allotment.

The Deputy Commissioner, Palwal was directed to be present in Court to explain the discrepancy qua the land received from UP in records of the Revenue Estate of Village Gurwadi, in lieu of 144 acres of land transferred to the farmers of UP vide Mutation No.841 and not existing at the site. In compliance, Smt. Anju Chaudhary, Additional Deputy Commissioner, Palwal is present in Court alongwith Revenue staff.

From a joint interaction with the authorities and with the consent of both the counsel for the parties, it is evident that a decision in the main CWP No.14318 of 2010, on merits, would be required to have a complete and holistic adjudication of all the parties concerned. As per the existing facts on record, it is further evident that there is no willful disobedience of any undertaking given before the Court. Further, in my opinion, if the petitioners had any land holding at the time of bifurcation of the boundaries between State of U.P and State of Haryana as per the 1979 Act, then it has to be mutated in their names only and not in the name of anybody else, because logically, only the boundaries of States alongwith the description of lands have changed and not the land itself. Thus, they were required to challenge the mutations sanctioned in favor of other parties of the land which actually belongs to them.

In view of the above, no further action is warranted in the present contempt petition. Further, the petitioners in the light of above, are permitted to seek the revival of their aforesaid writ petition bearing CWP

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:6:

No.14318 of 2010 for adjudication on merits.

Petition stands disposed of.

21.03.2017
sk

(Jaswant Singh)
Judge

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No