

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.12064 of 2014.

Date of Decision: December 08, 2017

Bahadur Singh (since deceased) through LRs.Petitioner

versus

State of Punjab and othersRespondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SUDHIR MITTAL.

Present: Mr.J.C.Batra, Advocate and Ms.Gitika, Advocate,
for the petitioner.
Mr.Rajesh Bhardwaj, Sr.DAG, Punjab.
Mr.Gurmeet Singh, Advocate, for respondent No.3.

-.-

Surya Kant, J. (Oral)

The petitioner has laid challenge to the orders dated 31.01.2011, 28.03.2012 and 29.11.2013 (P-3, P-4 & P-6, respectively), passed by the respondent-authorities by virtue of which the eviction application filed by Gram Panchayat-respondent No.3 against him under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 stands allowed and he has been ordered to be evicted from the land measuring 2 kanal 5 marla.

[2] The petitioner's defence throughout has been that the land measuring 18 marla 3 sarsai was allotted to him by the Rehabilitation Department vide Conveyance Deed No.113 dated 06.03.2002, based upon the sanctioned order dated 07.01.2002. His case is that he is in possession of only the above-mentioned allotted land. Learned counsel for the petitioner also made a statement before this Court on 06.04.2015 that the petitioner shall not claim ownership or possession of any other land except 18 marla 3 sarsahi allotted to him, as referred to above.

[3] Keeping the above mentioned stand of the petitioner in view, this Court directed the Tehsildar, Hoshiarpur and the Block Development and Panchayat Officer concerned to demarcate and identify 18 marla 3 sarsahi land which was allotted to the petitioner by the Rehabilitation Department. The record reveals that on 19.05.2015, the official respondents expressed their inability to identify the allotted land. This Court thus directed the State of Punjab to file affidavit from the Rehabilitation Department identifying the land which the said Department had transferred to the petitioner vide Conveyance Deed No.113 dated 06.03.2002 (P-9).

[4] In his effort to comply with the above-mentioned directions, Arvind Parkash, Tehsildar (Mahal)-cum-Sales, Hoshiarpur has done a commendable job as he left no stone unturned for identifying the land comprising Conveyance Deed No.113 dated 06.03.2002. He has filed the status-report-cum-affidavit dated 31.08.2017 which is self-explanatory. He went into the history of the village to identify that there were 348 owners in the village before partition of the country, out of whom 314 were Muslims and 34 Hindus. Muslim families migrated to Pakistan and properties left out by them became evacuee which included the residential houses as well as *taurs*/plots. He has further found that it was *taur* No.113 which was statedly in possession of the petitioner since the time Muslims left the village and he had applied for allotment of said *taur* No.113 . The then Naib Tehsildar (Sales), Hoshiarpur, vide order dated 09.02.1994 transferred this *taur* No.113 situated at village Khanaura, Tehsil and District Hoshiarpur, in favour of the petitioner against the price of Rs.2108/-, late fee Rs.1054/-, rent Rs.1054 and value of tree Rs.6500/- i.e., total amount of Rs.11390/-.

The allotment was made under the provisions of the Punjab Package Deal

Properties (Disposal) Rules, 1976 which were formulated under the Punjab Package Deal Properties (Disposal) Act, 1976. The said allotment was approved by the then Sub Divisional Magistrate-cum-Sales Commissioner, Hoshiarpur vide order dated 07.01.2002 and culminated into the Conveyance Deed No.113 dated 06.03.2002. The affidavit of Tehsildar (Mahal)-cum-Sales, Hoshiarpur further reads as follows:-

“... .. On the basis of statements made by the persons present at the spot and the position shown in the transfer file relating to the price of trees, the plot No.113 of village Khanaura, Tehsil and district Hoshiarpur has been identified to be within Lal Lakir and possession of the heirs of Bahadur Singh on the area as per site plan lying in the transfer file 15 Karam towards East, 15 Karam West, 11 Karam North, 11 Karam South area 18 Marls 3 Sarsahi has been established.....”

[5] He has thus concluded as follows:-

“.....8. That from the identification made by the revenue officials it is established that taur No.113 measuring 18 Marla 3 Sarsahi, which was transferred to Sh.Bahadur Singh son of Kishan Singh in village Khanaura, tehsil and district Hoshiarpur by the then Tehsildar (Sales) Hoshiarpur and its conveyance deed issued in his favour on 06.03.2002 vide Annexure P-9, is situated in the area measuring 213 Kanal 3 Marla comprised in khasra No.116 shown in the name of 'Abadi Deh' in the revenue record, which is within the Lal Lakir of village Khanaura, tehsil

and district Hoshiarpur.....”

[6] We appreciate the efforts made by Tehsildar (Mahal)-cum-Sales, Hoshiarpur who has succeeded in identifying the land measuring 18 marla 3 sarsahi comprising *taur* No.113 and which has been transferred to the petitioner vide Conveyance Deed No.113 dated 06.03.2002.

[7] The petitioner thus, in view of the statement and undertaking given before this Court on 06.04.2015, is entitled to retain possession of land measuring 18 marla 3 sarsahi only, as identified by the Tehsildar (Mahal) cum-Sales, Hoshiarpur in his affidavit dated 31.08.2017, the relevant part whereof is reproduced above.

[8] Learned counsel for respondent No.3-Gram Panchayat rightly submits that the petitioner has been found in actual physical possession of excess land, i.e., total measuring 2 kanal 5 marla and the land in possession of the petitioner beyond 18 marla 3 sarsahi is thus liable to be vacated by him.

[9] Learned counsel for the petitioner does not dispute this statement in view of the undertaking given on his behalf on 06.04.2015.

[10] In the light of the above, the writ petition is allowed in part; the impugned orders dated 31.01.2011, 28.03.2012 and 29.11.2013 (P-3, P-4 & P-6, respectively) are modified. While the petitioner is held entitled to retain possession of land measuring 18 marla 3 sarsahi, as identified by the Tehsildar (Mahal)-cum-Sales, Hoshiarpur in his affidavit dated 31.08.2017, he is directed to hand-over physical vacant possession of the remaining land to respondent No.3-Gram Panchayat.

[11] Let the needful be done within a period of three months from the date of receiving a certified copy of this order.

[12] Ordered accordingly.

[13] Dasti.

[SURYA KANT]
JUDGE

December 08, 2017
mohinder

[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No

CM No.6968 of 2015 in
CWP No.12064 of 2014

Bahadur Singh (since deceased) through LR.
Versus
State of Punjab and others

Present: Mr.J.C.Batra, Advocate & Ms.Gitika, Advocate,
for the petitioner.
Mr.Rajesh Bhardwaj, Sr.DAG, Punjab.
Mr.Gurmeet Singh, Advocate,
for respondent No.3.

For the reasons mentioned in the application, the
same is allowed subject to all just exceptions and the
documents (P-11 to P-13) are taken on record.

CM stands disposed of.

[SURYA KANT]
JUDGE

December 08, 2017
mohinder

[SUDHIR MITTAL]
JUDGE