

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

CWP No. 15529 of 2017 (O&M)

Date of decision: 18.08.2017.

Municipal Corporation, Gurugram

..... Petitioner.

Versus

Additional Chief Secretary and Financial Commissioner, Revenue, Haryana
and others

..... Respondents.

CORAM: HON'BLE MR. JUSTICE S.S. SARON
HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Lokesh Sinhal, Advocate, for the petitioner.

Mr. Ashok Singla, Additional Advocate General, Haryana,
for respondents No. 1 to 5.

Mr. M.L. Sarin, Senior Advocate with
Mr. Vikas Suri, Advocate, for respondent No. 6.

S.S. SARON, J.

The petition has been filed by the Municipal Corporation, Gurugram under Articles 226/227 of the Constitution of India seeking quashing of the order dated 15.09.2014 (Annexure P1) passed by the Additional Chief Secretary and Financial Commissioner, Revenue, Haryana (respondent No.1) whereby the revision filed by the private respondents was allowed by setting aside mutation No.3110 dated 02.07.2012 and the order dated 21.10.2015 (Annexure P2) passed by the Financial Commissioner, Haryana (respondent No. 2) in terms of which the review application filed by the petitioner - Municipal Corporation, Gurugram against the order dated 15.09.2014 (Annexure P1) was dismissed.

Notice in the case has not been issued. However, Mr. M.L. Sarin, Senior Advocate appearing in the connected PIL titled 'Harinder Dhingra v. State of Haryana and others', CWP No. 7112 of 2017, for M/s Metro Valley Business Park Pvt. Ltd., which is respondent No. 6 in the present petition, has put in appearance for the said respondent No.6 in the present case as well.

On the asking of Court, Mr. Ashok Singla, Additional Advocate General, Haryana, has put in appearance on behalf of respondents No. 1 to 5.

We have heard learned counsel for the petitioner, respondent No.1 to 5 and respondent No.6 at considerable length.

The petitioner - Municipal Corporation, Gurugram is aggrieved against the order dated 15.09.2014 (Annexure P1) passed by the Additional Chief Secretary and Financial Commissioner, Revenue, Haryana (respondent No. 1) whereby mutation No.3110 sanctioned in favour of the Municipal Corporation, Gurugram has been set aside. It is also aggrieved against the order dated 21.10.2015 (Annexure P2) passed by the Financial Commissioner, Haryana (respondent No. 2) whereby the review application filed by the petitioner - Municipal Corporation, Gurugram against the aforesaid order dated 15.09.2014 (Annexure P1) has been dismissed.

M/s Metro Valley Business Park Pvt. Ltd. (respondent No. 6) filed R.O.R. No. 530 of 2014 before the Additional Chief Secretary and Financial Commissioner, Revenue, Haryana (respondent No. 1) stating that mutation No.3110 dated 02.07.2012 was wrongly sanctioned in favour of the petitioner - Municipal Corporation, Gurugram. According to M/s Metro Valley Business Park Pvt. Ltd. (respondent No. 6), it had purchased the

lands through sale-deeds that were executed in its favour and mutations had been sanctioned; besides, entries were made in the record of rights, i.e. the 'jamabandi' for the year 2003-04.

A perusal of mutation No.3110 shows that the lands, as mentioned in the said mutations, was mutated in favour of the Municipal Corporation, Gurgaon (now Gurugram). The Additional Chief Secretary and Financial Commissioner Revenue, Haryana (respondent No.1) accepted R.O.R. No. 530 of 2014 filed by M/s Metro Valley Business Park Pvt. Ltd. (respondent No.6) vide impugned order dated 15.09.2014 (Annexure P1).

Mr. Lokesh Sinhal, Advocate appearing for the petitioner - Municipal Corporation, Gurugram submits that the title of the land in fact vests with the Municipal Corporation, Gurugram as the land was previously 'shamlat deh' of the village, which with the enlargement of the area of the Municipal Corporation, Gurugram, vide notification dated 20.03.2010 (Annexure P3), vests with the petitioner - Municipal Corporation, Gurugram. Besides, it is submitted that mutation in the revenue records does not confer any title and since title of the petitioner - Municipal Corporation, Gurugram is on the basis that the land of the 'shamlat deh' which earlier vested in the Gram Panchayat now vests with the Municipal Corporation, Gurugram; therefore, the mutation is liable to be corrected.

Mr. Ashok Singla, Additional Advocate General, Haryana for respondents No. 1 to 5, has submitted that after the land had vested in the Municipal Corporation, Gurgaon (now Gurugram), vide notification dated 20.03.2010 (Annexure P3), then for the correction of the revenue records which stand incorporated in the Jamabandi or where the question of title is involved, the Civil Court would be the only proper remedy in view of the

Division Bench judgment of this Court in Anar Singh v. Commissioner, Rohtak Division, Rohtak and others, (2014-2) PLR 136 (DB) (P&H).

Mr. M.L. Sarin, Senior Advocate appearing with Mr. Vikas Suri, Advocate, for M/s Metro Valley Business Park Pvt. Ltd. (respondent No. 6) submits that the land in question, in fact, vests with M/s Metro Valley Business Park Pvt. Ltd. (respondent No. 6) and the sanction of mutation in favour of the petitioner - Municipal Corporation, Gurugram had been incorrect. It is submitted that in case the petitioner - Municipal Corporation, Gurugram has any dispute with regard to the entries in the mutation, it is liable to get the same corrected from the Civil Court in terms of Section 45 of the Punjab Land Revenue Act, 1887. It is submitted that M/s Metro Valley Business Park Pvt. Ltd. (respondent No. 6) in fact has already filed a civil suit claiming declaration and title; besides, injunction has been passed in its favour which fact has been noticed by this Court while disposing of the PIL in the case, 'Harinder Dhingra v. State of Haryana and others', CWP No. 7112 of 2017 on 10.08.2017.

We have given our thoughtful consideration to the contentions of learned counsel appearing for the petitioner, respondent No.1 to 5 and respondent No.6 and with their assistance gone through the records of the case.

According to the petitioner Municipal Corporation, Gurugram, the title of the land in question vests with it as earlier the land was 'shamlat deh' and it vested in the Panchayat in terms of the Punjab Village Common Lands (Regulation) Act, 1961 (as applicable in the State of Haryana) ('1961 Act' - for short). However, according to M/s Metro Valley Business Park Pvt. Ltd. (respondent No.6) the land vest with it as it has purchased the

same. Besides, in any case, it has already filed a suit for determination of title.

In the present proceedings, the question of sanction of mutation only is involved. It is indeed not in much dispute that mutation in the revenue records does not confer any title. Hon'ble the Supreme Court in Balwant Singh v. Daulat Singh, (1997) 7 SCC 137, held that mutation of properties in revenue records neither creates nor extinguishes title to the property nor has it any presumptive value on the title. Such entries are relevant only for the purpose of collecting land revenue. Reliance was placed on an earlier decision in Sawarni v. Inder Kaur, (1996) 6 SCC 223, wherein it was held as follows:-

“Mutation of a property in the revenue record does not create or extinguish title nor has it any presumptive value on title. It only enables the person in whose favour mutation is ordered to pay the land revenue in question. The learned Additional District Judge was wholly in error in coming to a conclusion that mutation in favour of Inder Kaur conveys title in her favour. This erroneous conclusion has vitiated the entire judgment.”

Therefore, civil suit is the proper remedy for determination of title as also for correcting the revenue entries in case a person is aggrieved against the same. Section 45 of the Punjab Land Revenue Act, 1887, relates to, 'suit for declaratory decree by persons aggrieved by an entry in a record'. The said section reads as follows:-

“45. Suit for declaratory decree by persons aggrieved by an entry in a record. -- If any person considers himself

aggrieved as to any right of which he is in the possession by an entry in a record-of-rights or in an annual record, he may institute as suit for a declaration of his right under Chapter VI of the Specific Relief Act, 1877¹.”

Therefore, the Civil Court would be the appropriate forum for correction of revenue records including the mutations. In fact, even for claiming title, the Civil Court is the appropriate forum.

It may also be noticed that according to the petitioner - Municipal Corporation, Gurugram the land in question earlier was 'shamlat deh' land and vested with the Gram Panchayat in terms of the 1961 Act. Thereafter, vide notification dated 20.03.2010 (Annexure P3) it vests with the Municipal Corporation, Gurugram. According to M/s Metro Valley Business Park Pvt. Ltd. (respondent No.6) it has been purchased by it and it is the owner of the same. This question is also liable to be gone into by the Civil Court.

A Division Bench of this Court in Anar Singh's case (supra) considered the case where the petitioner therein filed a petition under Section 13 of the 1961 Act which was dismissed. During pendency of an appeal, a notification was issued to include the 'sabha' area of the Gram Panchayat within the municipal limits of Municipal Council, Sampla. After issuance of the notification, the Gram Panchayat and sabha area ceased to exist and the land, in dispute in the said case, no longer was amenable to the 1961 Act. Consequently, the Collector and the Appellate Authority, exercising powers under the 1961 Act had no jurisdiction to decide whether the land vested or did not vest in a Gram Panchayat. It was said that the

1 Now Chapter VI of the Specific Relief Act, 1963.

Appellate Authority had, therefore, rightly dismissed the appeal. It was held that the petitioner would, however, have to approach a Civil Court for adjudication of his rights in the 'shamlat deh' of the erstwhile Gram Panchayat.

Therefore, the parties who are affected by the entries in the revenue records or otherwise have a claim to title which is under a cloud, can get their rights determined by way of a civil suit and this Court need not interfere in the same at this stage.

In view of the above, the writ petition is disposed of by relegating the parties to the petition to avail their remedies before the Civil Court, if so advised.

However, it is made clear that nothing observed herein or in any interim orders passed by this Court in this case or in the connected cases shall be construed as an expression of opinion on the merits of the controversies between the parties and the learned Civil Court shall consider and decide the cases pending before it in accordance with law on the basis of evidence and material as adduced before it.

(S.S. SARON)
JUDGE

(AVNEESH JHINGAN)
JUDGE

18.08.2017
Ramesh

Note:

1. Whether reasoned/speaking : Yes
2. Whether reportable : Yes