

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

CM No. 11134-CWP of 2017 in/and
CWP No. 17003 of 2017 (O&M)
Date of decision: 21.08.2017.

Dev Singh alias Gurdev Singh

..... Petitioner.

Versus

State of Punjab and others

..... Respondents.

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

Present: Mr. Preetwinder Singh Dhaliwal, Advocate, for the petitioner.

S.S. SARON, J.

The civil miscellaneous application (CM No. 11134-CWP of 2017) has been filed for pre-poning the date of hearing.

The civil miscellaneous application is allowed, as prayed for, and the hearing of the case is pre-poned for today.

We have heard learned counsel for the petitioner.

The grievance of the petitioner, who is a resident of village Mehal Khurd, Tehsil and District Barnala and an agriculturist by profession, is that private respondents No. 8 to 11 are going to instal a rice-sheller in land comprised in Khasra No.1178, 1179 and 1180. The said land, it is submitted, is near to the populated area of the village and is 258 metres away from the residential houses of the petitioner and other persons, which are depicted in the site plan (Annexure P1).

The Government of Punjab, Department of Science, Technology, Environment and Non-conventional Energy Order, has issued

revised siting guidelines (Annexure P9) for the New Rice-Shellers and 'Saila' Plants in the State of Punjab. It is *inter alia* provided in terms of paragraph (A) clause (iv) of the said guidelines that new rice-shellers and 'saila' plants in the State of Punjab should be located at 500 metres away from the village 'Lal Dora'/'Phirni', Wild Life Sanctuary, Zoo, residential area, educational institution, historical, religious places and protected monuments. The 'residential area' has in the guidelines been defined to mean the area under a scheme notified by Punjab Urban Planning and Development Authority (PUDA), Municipal Corporation, Municipal Council, Improvement Trust or any other authority/agency in the State. Point No. (iv) is required to be certified by a Revenue Authority.

The petitioner though has relied upon the aforesaid paragraph (A) clause (iv) of the guidelines (Annexure P9) in support of his claim; however, he has not been able to show from the site plan (Annexure P1) that the rice-sheller being raised is not more than 500 metres away from the village 'Lal Dora'/'Phirni'. In fact, the location of the 'Lal Dora'/'Phirni' has not even been depicted in the site plan (Annexure P1). Besides, there is no other document to show the distance of the rice-sheller that is being installed from the 'Lal Dora'/'Phirni'. Moreover, it is also not shown that the residential houses, which are stated to be less than 500 metres from the rice-sheller, have been notified to be 'residential area' by the Punjab Urban Planning and Development Authority (PUDA), Municipal Corporation, Municipal Council, Improvement Trust or any other authority/agency in the State. Point No. (iv) regarding the meaning of 'residential area' is to be certified by a Revenue Authority, which has also not been done.

Learned counsel for the petitioner, in the circumstances, prays that he may be allowed to withdraw the petition so as to specifically show that the rice-sheller that is being set up violates the guidelines (Annexure P9) by mentioning the distance of the 'Lal Dora'/'Phirni' from the rice-sheller and also submit the distance of the rice-sheller from the residential houses and that the houses form part of the 'residential area' as defined in the said guidelines. He also prays for withdrawing the writ petition so as to enable the petitioner to place on record the actual persons who are constructing the rice-sheller in the area and as to whether it is a private partnership firm or sole proprietorship concern.

Keeping in view the fact that there are formal defects in the petition, besides, there are sufficient grounds for allowing the petitioner to institute a fresh petition for the same subject matter of the petition, we permit learned counsel for the petitioner to withdraw the petition with liberty to file a fresh petition on the same *cause of action* and subject matter after giving necessary particulars.

The writ petition is accordingly dismissed as withdrawn with aforesaid liberty.

(S.S. SARON)
ACTING CHIEF JUSTICE

(AVNEESH JHINGAN)
JUDGE

21.08.2017
Ramesh

Note: 1. Whether reasoned/speaking : Yes

2. Whether reportable : No