

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

CR No.1574 of 2016 (O & M)

Date of Decision:-07.2.2018

Satnam Singh and others

...Petitioners

Versus

Gram Panchayat of Village Thathi, District Amritsar

...Respondent

CORAM:- HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. R.S. Bains, Advocate
for the petitioners.

Mr. Vivek Chauhan, Advocate
for the respondent.

AMIT RAWAL J.(Oral)

The present revision petition has been filed against the order of learned Lower Appellate Court dated 7.1.2016 whereby the ex-parte status quo order dated 28.9.2015 passed by the Civil Judge (Junior Division), Ajnala, in Civil Suit No.523 of 2015 has been set aside.

Mr. R.S. Bains, Advocate learned counsel appearing on behalf of petitioner submits that the lower Appellate Court has remained oblivious of the fact that the suit was filed for permanent injunction in respect of the suit land as the property was owned by Gram Sabha and management and control also vested in Gram Sabha wherein the prayer was for restraining the defendants from changing the nature of the land from agricultural land

to gair mumkin in any manner except in due course of law. The trial Court granted the status quo order but the lower Appellate Court in appeal preferred by the Gram Panchayat has set aside the order. The impugned order is not sustainable in the eyes of law. It is provided in the **Punjab Village Common Lands (Regulation) Rules 1964** amended in 2014 that for the purpose of transfer or exchange of the land the prior approval of the Government is needed but no such prior approval of the Government was taken. Rule 6(1)(a) of the Punjab Village Common Land Rules, 1964 envisages one-third of the cultivable land proposed to be leased shall be reserved for giving on lease by auction to the members of the Scheduled Castes only. The defendant being executive head of the village has to control and manage the affairs for the well being of the villagers, but not to misuse the powers. All these factors were not noticed by the lower Appellate Court.

Per contra Mr. Vivek Chauhan, Advocate learned counsel appearing on behalf of respondent submits that the order under challenge is perfectly legal and did not call for any interference. The suit filed by the plaintiff was not maintainable. As per the jamabandi for the year 2009, the suit property has been shown as Jumla Mustarka Malkaan and the Gram Panchayat was controlling, holding and managing the land since the consolidation of holdings on behalf of village proprietary body. It is the Panchayat, who has to see the welfare of the community. Even the notification dated 22.10.2014 issued by the Punjab Government to formulate the District Animal Welfare Society to build the *Gaushala* for

looking after of stray cattles. In this view of the fact of the matter the area being used for Gaushala and as a sum of rupees one crore has already been spent on it, therefore, urges this Court to uphold the impugned order dated 07.1.2016 passed by the lower Appellate Court.

I have heard learned counsel for the parties and appraised the paper book.

Without commenting on the merits and demerits of the matter particularly when the suit has been filed on 13.10.2015 and I deem it appropriate to issue direction to the trial Court to expedite the matter and decide the same preferably within a period of one year. Counsel for the respondent has stated that since the land is being used for gaushala, the status quo order passed by the trial Court be directed to maintained. The notification dated 2.5.2014 shows that the land which vests in Gram Panchayat can be leased out for a period of 30 years with the prior approval of the State Government for industrial, commercial and educational or such other professional purposes from time to time. The lease can further be renewed for the purpose of public interest with a rider that the lessee shall not create any encumbrance and would entail into cancellation in case found to be misused or within one year if work did not start muchless in case of violation of the terms and conditions. In my view no useful purpose would be served for keeping the revision petition pending particularly in view of the fact that the suit has been filed in the year 2015 and to restore the order of status quo as passed by the trial Court as by now according to the submissions made by learned counsel for the respondent that on the land

the gaushala is already working, it will be subject matter of the pending suit.

Disposed of.

Anything expressed herein shall not be an opinion on the merits of the case.

February 07, 2018
Vijay Asija

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No