

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

CWP No.27097 of 2017 (O&M)

Date of Decision : 11.05.2018

Gopi and others

....Petitioners

Versus

State of Haryana and others

....Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE RAJBIR SEHRAWAT

Present: Mr.Dalbir Singh, Advocate
for the petitioners.

MAHESH GROVER, J. (Oral)

The petitioners impugn the order Annexure P-28 dated 21.08.2017 by which proceedings to cancel the allotment of 3-Marla plots made in the year 1975-76 have been initiated.

The petitioners/predecessors-in-interest of some of the petitioners were allotted plots pursuant to a Scheme as an inherent part of 20 Points Program intended for the welfare of downtrodden. The Scheme has been placed on record and indicates that the allotment of plots was meant for raising dwelling units. Some people from the village filed a writ petition praying for appropriate directions to be issued to the official respondents to initiate action on a letter dated 22.07.2016. This writ petition bearing No.21235 of 2016 was disposed of with a direction to the official respondents to consider the representation.

We have perused the order dated 22.07.2016 issued by the Deputy Commissioner, Jind, who pursuant to the directions of the

Hon'ble Supreme Court mandating that no area of the village intended for common purposes such as pond etc. be used for any other purpose, probably held an inquiry after associating the Sarpanch and Panches of the village and on which basis the Deputy Commissioner ordered initiation of proceedings against the Gram Panchayat for dereliction of duty and in addition thereto directed as follows :-

“In addition, it is also requested to issue guidance qua plots allotted to beneficiaries in pond land before pronouncement of these cases by Hon'ble Supreme Court (Jagpal vs State, Hinch Lal Tewari vs Kamla Devi and ors.) whether to be kept under ownership of beneficiaries in pond land itself or plots allotted in pond land be shifted to other place through fresh allotment. Additionally, it is also requested to issue guidance that in case of shifting of land than the beneficiaries who have constructed their houses on the pond land with self expenditure or allotted amount, be shifted from the pond land or not and if their houses are to be shifted than whether they will be entitled for any compensation or not. If they are considered as entitled for such compensation than under which Rules, department and scheme, the same would be released.”

Pursuant thereto the impugned order dated 21.08.2017 has been passed after the beneficiaries of the plots (allottees) were heard.

It notices that plots were allotted in the year 1976 out of the land

bearing khasra No. 454 and the allottees were to construct the residential houses within a period of 12 months from the date of possession of plots but till date none or at least most of them had not constructed any residential houses. It also notices a resolution passed by the Gram Panchayat dated 18.03.2017 allocating an alternate site bearing khasra No.424//12, 19 to the allottees of plots in lieu of the one that would now require to be abandoned. None of the allottees except one agreed to the proposal and rather some proceedings in the civil court were initiated by number of persons seeking permanent injunction to restrain the official respondents and the Gram Panchayat to interfere in their peaceful possession wherein an interim order has been passed recommending proceedings under Section 10A of the Punjab Village Common Lands (Regulation) Act, 1961.

Having regard to the aforesaid, we do not find any infirmity in the impugned order which takes into consideration the default of the allottees in not raising the construction within the stipulated period as also the fact that the Gram Panchayat has passed a resolution suggesting an alternate site to rehabilitate such allottees which is a benevolent move considering the default of the allottees and also the fact that in writ proceedings we would not be able to pass any other order considering the alternate remedy already availed of by various sets of allottees. The present petition tantamounts to existence of parallel proceedings, which is impermissible in law. Therefore, the instant petition is dismissed.

We also do not find any infirmity in the approach of the

official respondents in seeking cancellation of the allotments made qua which there was a clear default since 1976. We, therefore, direct that the civil court shall take notice of this fact while determining the suit.

Copy of the order be also despatched to the civil court.

(MAHESH GROVER)
JUDGE

11.05.2018
dss

(RAJBIR SEHRAWAT)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No