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

**CWP No.16211 of 2019
Date of decision: July 01, 2019**

Ram Pal and others ...Petitioners

Versus

State of Haryana and others ...Respondents

**Coram: Hon'ble Mr. Justice Rakesh Kumar Jain
Hon'ble Mr. Justice Arun Kumar Tyagi**

**Present: Mr. Akshat Mittal, Advocate,
for the petitioners.**

Rakesh Kumar Jain, J.

The petitioners had earlier filed CWP No.4865 of 2019 while replying upon the policy of the Government of Haryana dated 16.10.2000 and resolution of the Gram Panchayat dated 14.12.2003 for the purpose of seeking a writ in the nature of *mandamus* for allotment of plots measuring 200 sq. yards to the petitioners in the revenue estate of village Chandla Dungarpur. The said writ petition was got dismissed as withdrawn by the petitioners on 25.02.2019, with the following order:-

“Twenty Four (24) petitioners are stated to be residents of village Chandla Dungarpur, Tehsil Pachgaon, District Gurugaoon. They are claiming the allotment of plots measuring 200 sq. yards each in view of resolution dated 14.12.2003, (Annexure P5) passed by the Gram Panchayat in the light of Rule 8.3 of the Punjab Village Common Land (Regulation) Rules, 1964, which concededly stands omitted since the year 2008.

After arguing for some time, counsel for the petitioners prays for permission to withdraw the instant petition with liberty to file a fresh petition with better particulars and relevant provisions-any Policy, showing their entitlement.

Dismissed as withdrawn with aforesaid liberty.”

The petitioners have again approached this Court by way of this

petition with the same prayer made earlier in CWP No.4865 of 2019. The petitioners have not referred to any new policy and have rather referred to Rule 12 of the Punjab Village Common Lands (Regulation) Rules, 1964 (hereinafter referred to as the “Rules”), which is reproduced as under:-

12. Purposes for which land may be sold. Sections 5 and 15

(2)(f).-- (1) A Panchayat may, with the previous approval of the State Government, sell land in shamilat deh vested in it under the Act for --

- (i) the purpose of constructing affordable houses by Government agency or Government owned Companies or Board or Corporation for the inhabitants of the concerned village or office, building of Panchayat Samiti, Zila Parishad or of any Government department, Government owned companies and Public Sector Undertakings, at the rate not less than the floor rates notified by the State Government from time to time.
- (ii) the purpose of setting up infrastructure facilities, educational institutions, Special Economic Zone Projects and Industrial Development, units of public utility nature as may be approved by the State Government to be for the benefit of inhabitants of the village at the rate not less than the market rate;
- (iii) the purpose of residence to the inhabitants of the village not less than the floor rates notified by the State Government from time to time for a size of a plot to an individual not exceeding 250 square yards:

Provided that the vendee shall not sell or dispose of the land in any other manner whatsoever, before the expiry of a period of twenty years from the date of the sale:

Provided further that land shall revert back to the Gram Panchayat if it is used for the purpose other than it was sold:

Provided further that the State Government may impose such other terms and conditions as it may deem fit for such sale:

Provided further that not more than twenty-five percent of the total land in shamilat deh shall be allowed to be sold.

(2) Where it is proposed to sell the land in shamilat deh under sub-rule (1), the Panchayat shall forward to State Government a copy of its resolution passed by a majority of the three-fourth of its members proposing to sell the land through the Deputy Commissioner stating-

- (a) the area and location of the land proposed for sale;
- (b) the estimated income from the sale;
- (c) the reasons as to why the Panchayat wants to sell the land and the plans for utilization of the income from the sale.

(3) The publicity for sale of land in shamilat deh by auction shall be made by the Deputy Commissioner in accordance with the procedure laid down in sub-rule (10) of rule 6 on receipt of the approval of the State Government who shall also decide whether the land shall be sold in one or more lots and the officer who shall be present at the time of auction:

Provided that nothing contained in this sub-rule shall apply to the sale of shamilat land for the purposes specified in clause (i) and (ii) of sub-rule (1).

(4) The Gram Panchayat may with the prior approval of the State Government, sell its non-cultivable land in shamilat deh to the inhabitants of the village who have constructed their houses on or before the 31st March, 2000, not resulting in any obstruction to the traffic and passers-by, along with open space upto 25% of the constructed area or an appurtenant area upto a maximum of 200 square yards at not less than collector rate, floor rate or market rate, whichever is higher.”

Although learned counsel for the petitioners has submitted that the resolution was passed by the Panchayat in the year 2003 in terms of the policy of the year 2000 and Rule 8.3 of the Rules was omitted in the year 2008, therefore, the right to purchase the property in question, being unauthorized occupants, had crystalized before omission of Rule 8.3 in the year 2008 but in the alternative, it is submitted that Rule 12(4) of the Rules empowers the Gram

Panchayat to sell its non-cultivable land in *shamlat* deh to the inhabitants of the village who have constructed their houses on or before the 31st March, 2000, therefore, the resolution passed by the Gram Panchayat deserves to be given effect to.

We have heard learned counsel for the petitioners and perused the record with their able assistance.

Insofar as the first argument that Rule 8.3 of the Rules was omitted in the year 2008 and the resolution was passed by the Gram Panchayat in the year 2003 in conformity with the policy of the year 2000, therefore, the right of the petitioners has crystalized is concerned, the said argument was also available to the petitioners when CWP No.4865 of 2019 was argued but despite that the writ petition was withdrawn, with liberty to file a fresh petition by referring to relevant provisions or any other policy showing their entitlement. Therefore, this argument cannot now be raised and hereby rejected.

Insofar as the present petition is concerned, the petitioners have not referred to any policy subsequent to the introduction of Rule 12 of the Rules by way of notification dated 03.01.2008 after omission of Rule 8.3 of the Rules. It is, thus, apparent that the Government has not framed any such policy in conformity with Rule 12 of the Rules for the purpose of selling the land of the Panchayat within the *abadi* deh to the persons who have long possession. However, in any case, Rule 12(4) of the Rules may come to the rescue of the petitioners to some extent because the said Rule provides that the Gram Panchayat would take prior approval of the State Government for the purpose of selling its non-cultivable land in *shamlat* deh to the inhabitants of the village who have constructed their houses on or before 31st March, 2000 and would specifically mention that the said sale of land would not cause any

obstruction to the traffic and passers-by and the area which is required to be sold being in unauthorized use of the inhabitants and shall not be more 25% of the constructed or an appurtenant area upto a maximum of 200 sq. yards and that it is being sold or offered to be sold at the price not less than collector rate, floor rate or market rate, whichever is higher.

All these aspects referred to in Rule 12(4) of the Rules are conspicuous by their absence in the resolution dated 14.12.2003 as in the said resolution, the Panchayat has decided to sell the land only on the ground that the land of *shamilat* deh is in illegal occupation for the last 15 years by the petitioners by raising construction of houses. Thus, there is complete non-compliance by the Gram Panchayat to the provisions of Rule 12(4) of the Rules and the said resolution, which seems to have been passed in terms of the policy dated 16.10.2000, has become redundant.

Accordingly, in the absence of any fresh resolution by the Panchayat which would refer to all the ingredients of Rule 12(4) of the Rules, the petitioners cannot claim any right for seeking a writ in the nature of *mandamus*.

In view thereof, the present petition is hereby dismissed.

(RAKESH KUMAR JAIN)
JUDGE

July 01, 2019
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(ARUN KUMAR TYAGI)
JUDGE