

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

**Civil Writ Petition No. 12152 of 2014 (O&M)
Date of Decision: 30.01.2019**

Suraj Mal

..... Petitioner

Versus

State of Haryana and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI**

Present: Mr. Vivek Khatri, Advocate
for the petitioner.

Mr. Arun Beniwal, Deputy Advocate General, Haryana
for respondent Nos. 1 & 3 to 5/State.

Mr. Ashok Kumar Sharma, Advocate
for respondent No. 6-Gram Panchayat.

JASWANT SINGH, J.

1. Petitioner (Suraj Mal) by instituting present petition under Article 226 and 227 of the Constitution of India is seeking quashing of Resolution dated 18.10.2012 (**Annexure P-1**) passed by Gram Panchayat, Village Bibipur, Tehsil & District, Jind and Order dated 27.08.2013 (**Annexure P-2**) passed by State of Haryana whereby construction of warehouse by Central Warehousing Corporation over land measuring 45 Kanals 10 Marla falling in Khasra no. 69/13/2 (3-0), 14 (8-0), 15 (4-0), 17 (8-0), 18 (7-16), 23/2 (4-0), 24 (6-14) has been approved.

2. The Village Panchayat vide Resolution dated 18.10.2012 (**P-1**) resolved to sell its 45 Kanal 10 Marla land/samlath land @ ₹ 28 lakh per acre to Central Warehousing Corporation to construct warehouse. The Principal Secretary to Government of Haryana, Development and

Panchayats Department, vide order dated 27.08.2013 (P-2) accorded sanction to resolution of Panchayat.

3. The petitioner made a representation dated 18.02.2014 (P-3) to authorities whereby petitioner pointed out that he was cultivating said land and Gram Panchayat was getting lease money so selling of land would deprive him livelihood and earning of Gram Panchayat. The land is fertile land and reserved for Scheduled Caste quota. On 26.11.2012, a meeting was conveyed of Gram Sabha wherein it was unanimously decided that sale of land to corporation at market rate of ₹ 28 lakh per acre is correct and justified.

4. Counsel for the petitioner contended that land was sold at a meagre price of ₹ 28 lakh per acre whereas market rate of aforesaid land was more than ₹ 1 crore per acre. He further contended that respondents had not complied with Rule 12 of Punjab Village Common Lands (Regulations) Rules, 1964. The land has been sold for the purposes other than specified in Rule 12 of the Rules which is contrary to legal proportion of law that village land which is part and parcel of samalath land cannot be sold for purposes other than benefit of whole of the community.

5. On direction of this Court, the Administrator of Gram Panchayat, Bibipur-cum-Block Development and Panchayat Officer, Jind filed an affidavit *inter alia* disclosing that Panchayat received a sum of ₹ 1,59,25,000/- as compensation from Central Warehousing Corporation on 18.02.2014 and out of said amount a sum of ₹ 1,40,10,000/- was transferred to Executive Engineer, Panchayati Raj, Jind for the renovation of pond. The Executive Engineer, Panchayati Raj spent ₹ 89,48,774/- and returned

6. Learned State Counsel and counsel for the Gram Panchayat contended that land was sold to Central Warehousing Corporation which is Central Government Instrumentality and not private builder, therefore, it cannot be alleged that Gram Panchayat transferred land with ulterior-motive. The land was sold within parameters of Rule 12 of the Rules and amount received from sale of land has been utilised for several development works of the village. The Gram Panchayat is leasing out 7 acres 7 kanal and 18 marla land for cultivation and out of this land 1/3rd land is still reserved for the Scheduled Caste Community, hence, rights of this community are not effected in any way.

7. Having scrutinized record of the case and after hearing arguments of counsel of all the parties, we are of the considered opinion that present petition is bereft of merits and deserves to be dismissed.

8. The conceded position emerging from record and arguments of counsel is that Gram Panchayat passed resolution with 3/4th majority to sell *shamlat* land and said resolution was approved by Principal Secretary to Government of Haryana and approval was also accorded by Governor of Haryana. The Gram Panchayat received consideration in the year of 2014 and utilized for various projects including construction of pond.

9. The petitioner has raised two contentions namely land was sold in violation of Rule 12 of the Rules and consideration was much lower than the market price. It would be profitable to reproduce Rule 12 of the Rules:

“12. Purpose for which land may be sold (Sections 5 and 15 (2) (f) of the Act)-(1) A Panchayat may, with the previous approval of the Government, sell land in Shamilat Deh vested

in it under the Act for:-

- (i) the purpose of constructing building for Block Samiti Office or any department of or institution recognized by the Government;*
- (ii) the purpose of any industrial or commercial concern; or*
- (iii) executing such a scheme as may be a source of recurring income for the benefit of the inhabitants of the village.*
- (iv) residential purpose of the inhabitants of the village.*
- (v) for the purpose of financing the construction of building for schools and for veterinary and civil dispensaries in the Sabha area). ”*

10. The petitioner has failed to furnish any evidence from where it could be culled out that market price of land in question was much higher than ₹ 28,00,000/- per acre. The land was sold to Central Warehousing Corporation which is a Central Government Instrumentality, so it is difficult to believe especially in the absence of concrete evidence that land was sold at a price less than market price so, contention of petitioner qua market price of land in question is turned down.

The land was sold to Central Warehousing Corporation for the construction of Warehouse so it falls within clause (i) and (ii) of Rule 12 (1) of the Rules. The Warehousing Corporation got land for the construction of Warehouse so respondents were justified to sell its land to Central Warehousing Corporation and it cannot be held that the land was sold in violation of afore-stated Rule 12.

11. On the question of construction of pond at the huge cost of ₹ 90 lakh, this Court time to time issued instructions and in compliance to instructions of this Court, State Vigilance Bureau registered FIR and initiated further

proceedings. Inspector Satbir Singh, Incharge, State Vigilance Bureau Unit, Jind, Haryana who is present in the court submitted that challan has already been prepared & approved and pending for submission before the designated Court.

In view of the aforesaid findings, the present petition deserves to be dismissed and accordingly **dismissed**. It is made clear that designated Court shall proceed with Police report filed, if any filed under Section 173 of Cr.P.C. by State Vigilance Bureau without being influenced by observations of this Court.

(JASWANT SINGH)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

January 30, 2019

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<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>