

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

CWP-(PIL)-4693-2016 (O&M)
Date of decision:- 21.02.2019

Rajiv Kumar and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI

Present:- Mr. Kuldip S. Chaudhary, Advocate,
for the petitioners.

Mr. Shreesh Gupta, Senior Deputy Advocate General, Punjab,
for respondents No. 1 to 6.

Mr. Ashok Kumar Arora, Advocate,
Ms. Babita, Advocate,
for respondent No. 7.

Mr. Pankaj Jain, Senior Standing Counsel,
with Mr. Jaivir Chandail, Advocate,
for respondents No. 8 to 11.

Mr. Chetan Mittal, Senior Advocate,
with Mr. Vivek Sethi, Advocate,
for the applicant in CMs-13635 & 13636-2018,
and CMs-13679 & 13680-2018.

Mr. Deepak Aggarwal, Advocate,
for the applicant in CM-17382-2018.

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KRISHNA MURARI, C.J. (ORAL)

This writ petition in the nature of Public Interest Litigation has been filed by the petitioners seeking the following main reliefs:-

- (i) Issue an appropriate writ, order or directions to the respondents for conducting high level enquiry into the matter and for removing encroachment from the shamlat/gram panchayat

land measuring 48 kanals 12 marlas bearing Khasra No. 129/2 situated in the revenue estate of village Nada, Hadbast No. 350, Tehsil Kharar, District SAS Nagar (Mohali) which was transferred from village Nada to Provincial Government Capital Project Chandigarh, but due to the negligence and connivance of the officials of Chandigarh Administration and Mohali (SAS Nagar) Administration, the said land measuring 48 kanals 12 marlas belonging to Chandigarh Administration has been encroached upon by the land mafia active in the area, who, in connivance with the revenue authorities/area patwari of village Nada, Nagar Panchayat Naya Gaon, District SAS Nagar (Mohali), have illegally carved out small plots in the said land belonging to Chandigarh Administration and are selling the same by getting the sale deeds executed/registered qua the shamlat land bearing Khasra No. 129/1 and other khasra numbers of shamlat land of village Nada, District SAS Nagar (Mohali), Punjab and are giving possession on the said land bearing Khasra No. 129/2 belonging to Chandigarh Administration to the purchasers.

(ii) Issue an appropriate writ, order or directions to respondents No. 3, 4 and 9 for taking appropriate legal action on the application/representation dated 26.12.2015 (Annexure P-7) and for initiating departmental action against the concerned officials due to whose negligence and connivance the said public land/shamlat land/gram panchayat land, which was transferred to Chandigarh Administration, has been encroached upon.

(iii) Issue an appropriate writ, order or directions to respondent No. 10 to take appropriate legal action on the complaint dated 16.06.2015 (Annexure P-4) and to register FIR under appropriate provisions of law/IPC against the land

mafia/accused persons for illegally/fraudulently grabbing the said land of Chandigarh Administration.

(iv) Issue an appropriate writ, order or directions to respondents No. 1 to 9 to transfer back the above said shamlat/gram panchayat land measuring 48 kanals 12 marlas bearing Khasra No. 129/2 situated in the revenue estate of village Nada, Hadbast No. 350, Tehsil Kharar, District SAS Nagar (Mohali) which was transferred from village Nada to Provincial Government Capital Project Chandigarh to Nagar Panchayat Naya Gaon i.e. respondent No. 7, if the said land is not required by Chandigarh Administration, so that the said shamlat land can be used by Nagar Panchayat Naya Gaon for public purposes.

2. During the pendency of the petition, the petitioners made an application being CM-6666-2017, whereupon the following interim order was passed on 19.05.2017:-

"This civil miscellaneous application has been filed for ensuring that no illegal and unauthorised construction was raised or permitted to be raised on land measuring 48 K 12 M comprised in Khasra no.129/2, situated in the revenue estate of village Nada, Hadbast No. 350, Tehsil Kharar, District S.A.S. Nagar, Mohali.

Notice of the civil miscellaneous application to non-applicants respondents.

On the asking of the Court, Mr. P.P.S.Thethi, Addl.AG, Punjab., accepts notice on behalf of respondents no.1 to 6.

According to the applicants-petitioners, the aforesaid land has been transferred by the Gram Panchayat village Nada in the year

1966 to Provincial Government Capital Project, Chandigarh. However, the same is being encroached upon by land grabbers in connivance with the Revenue Authorities/ Area Patwari of village Nada, Nagar Panchayat Naya Gaon, District S.A.S. Nagar, Mohali. According to the applicants-petitioners, the land which is recorded in possession of the Chandigarh Administration is being sold by getting the sale deeds executed/ registered qua shamlat land comprised in Khasra no.129/1 and other Khasra numbers of shamlat land of village Nada while possession has been given of land comprised in Khasra no.129/2, which is in possession of the Chandigarh Administration.

A perusal of the jamabandis for the year 1967-68 (Annexures P-1 and P-2) shows that the land comprised in Khasra No.129/2 is recorded in the ownership of the Provincial Government while department of Capital Project, Chandigarh is recorded in possession. The land measuring 48 K 12 M is recorded as Gair Mumkin Choe. Land comprised in Khasra no.129/1 measures 1009 K 13 M out of which land measuring 986 K 8 M is Gair Mumkin Choe while land measuring 23 K 5 M is Barani.

Mr. P.P.S.Thethi, Addl.AG, Punjab submits that he shall get necessary and complete instructions in the case on the next date of hearing.

List the case for hearing on 03.07.2017.

In the meantime, status quo shall be maintained with respect to land comprised in Khasra No.129/1 and

129/2 situated in the revenue estate of village Nada, Tehsil Kharar, District S.A.S.Nagar, Mohali.

A copy of the order be given to the learned State counsel under the signatures of the Court Secretary, who shall convey the same to respondents no.1 to 6 and all other concerned."

3. Subsequently, one Prem Sarup Bansal made an application being CM-13636-2018 for being impleaded as respondent No. 12. Another application being CM-13680-2018 was made by the said applicant seeking modification of the order dated 19.05.2017. The modification was being sought on the allegations that the applicant has no concern in so far as Khasra no. 129/2 is concerned, but the interim order in respect of Khasra No. 129/1 was obtained by the petitioners by misleading and pleading false and untrue facts. It is stated that Khasra No. 129/1 is recorded as ownership of the proprietors of village Nada and also the subsequent purchasers from the said proprietors. To support the contention, true translated copy of the Jamabandi for year 2008-2009 pertaining to the applicant was brought on record as Annexure A-1. It is further stated that the allegation made by the petitioners that the land comprised in Khasra No. 129/1 is shamlat land is also totally false and incorrect. It is also pointed out that petitioner No. 1, namely, Rajiv Kumar filed Civil Suit No. 846 on 23.09.2011 before the Court of learned Civil Judge (Junior Division), Kharar claiming title over same especially in Khasra No. 129/1 and subsequently entered into a settlement with the defendants in the said suit who were purchasers for a consideration of ₹ 6,28,100/-. To support the allegations, true

Judge (Junior Division), Kharar alongwith a copy of the statement of Rajiv Kumar etc. and also the compromise deed were collectively filed as Annexure A-3. Notice was issued on the impleadment application as well as the modification application, but till date, no reply has been filed. Rather a request is being made by learned counsel for the petitioners to permit withdrawal of this writ petition.

4. Apparently, after the true and correct facts have surfaced before this Court, the petitioners cannot be allowed to run away by getting the writ petition dismissed as withdrawn. The allegations made against the petitioners in respect of the disputed land bearing Khasra No. 129/1 are undisputed. Hence, the same are to be taken as correct. It is apparent from the entire facts and circumstances that the petitioners have deliberately misled the Court by making false allegations and obtained the interim order dated 19.05.2017 by suppressing the true and correct facts. This petition based on false and incorrect facts has consumed the time of this Court from 2016. We do not want to waste any further time of this Court by keeping this petition pending any further.

5. Since a prayer has been made to permit withdrawal of the writ petition, we allow the same, but not without cost to be paid by the petitioners for not only wasting the precious time of this Court for almost a period of 3 years, but also misleading the Court. Hence, while dismissing the writ petition as withdrawn on the prayer made by learned counsel for the petitioners, we impose a cost of ₹2.5 lacs on each of the three petitioners. The cost shall be deposited by the petitioners with the Registrar General of this Court within a period of one month from today failing which the Registrar General shall

shall proceed to recover the same from the petitioners as arrears of land revenue. The cost so realized shall be remitted by the District Collector to this Court to be deposited through Bharat Ke Veer website - bharatkeveer.gov.in or through Mobile App meant for Paramilitary Martyrs as well as in Army Welfare Fund Battle Casualties bearing A/c No. 90552010165915 with Syndicate Bank, South Block, Defence Head Quarters, New Delhi-110011 having Branch Code 9055 and IFSC Code SYNB0009055.

6. In view of the writ petition having been dismissed as withdrawn, the impleadment applications being CM-13636-2018 and CM-17382-2018 are rendered infructuous. Hence, the same are dismissed as such.

7. The interim order dated 19.05.2017 passed during the pendency of the writ petition stands discharged.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

21.02.2019
Amodh

whether speaking/reasoned	Yes/No
whether reportable	Yes/No