

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

115

**CWP No.24817 of 2019
Date of Decision: 06.09.2019**

Anil 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. Raj Kumar Gupta, Advocate for the petitioners.

RAKESH KUMAR JAIN, J. (ORAL)

The petitioners are praying for the issuance of a writ in the nature of mandamus to direct the respondents to sell the land underneath their houses in terms of Rule 12(4) of the Punjab Village Common Lands (Regulation) Rules, 1964 (as applicable to the State of Haryana) (for short, “the Rules”). The petitioners have already been evicted in terms of the order passed in a petition filed under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (as applicable to the State of Haryana) (for short, “the Act”), but they had filed a writ petition No.26510 of 2015 titled as 'Anil Kumar and others Vs. State of Haryana and others' which was disposed of by this Court on 19.12.2015 in terms of order passed in CWP No.10446 of 2015 titled as 'Om Parkash Vs. State of Haryana and others' decided on 13.10.2015. The direction issued in the case of Om Parkash (Supra) are as under:

"[8] We have heard learned counsel for the parties and gone through the record.

[9] It does appear that the authorities have taken the

impugned action in haste, may be under the threat of contempt of order dated 05.08.2014 passed by this Court. In this process, they have failed to observe the principles of natural justice as well.

[10] The question whether the petitioner or other encroachers are still in physical possession of shamlat land is essentially a factual issue which has to be determined by the Assistant Collector, 1 st Grade or any other Authority by carrying out demarcation with advance notice to both the parties and the Gram Panchayat. Let the needful be done in this regard within a period of two months from the date of receiving a certified copy of this order.

[11] If the petitioner or other residents of the village are found to be in possession of the shamlat deh land and if they are willing to purchase such non-cultivable land in terms of Rule 12(4) of the 1965 Rules, their request shall be considered in the light of the judgment of this Court dated 17.09.2015 passed in CWP No.13334 of 2014 (Ram Chander versus Commissioner, Rohtak Division, Rohtak and others), provided that they fulfill the conditions prescribed under the Rules.

[12] Till such proceedings are undertaken, the parties are directed to maintain status-quo re: possession.

[13] The writ petition stands disposed of accordingly.

[14] Let a copy of this order be given dasti to Ms.Kirti Singh, learned Deputy Advocate General, Haryana, for information and necessary compliance."

We have perused the record of this case and found that the petitioners have themselves not filed any kind of representation to the Gram Panchayat for the purchase of the land in terms of Rule 12(4) which reads as under:

"12(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, alongwith 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)."

Faced with these observations, counsel for the petitioners prays for withdrawal of the petition at this stage, to file a comprehensive representation to the Gram Panchayat for the purpose of taking advantage, if any, from the order passed by this Court in the earlier Civil Writ Petitions No.26510 and 10446 of 2015.

With these observations, the writ petition is disposed of.

(RAKESH KUMAR JAIN)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

06.09.2019
Vinay

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