

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 15227 of 2020 (O&M)

Date of Decision: 30.09.2020

Gram Panchayat Hardosaran

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. R.S.Manhas, Advocate
for the petitioner.

Mr., Navdeep Chhabra, Deputy Advocate
General, Punjab for the respondents.

Anil Kshetarpal, J.

This writ petition under Article 226/227 of the Constitution of India, has been filed by Gram Panchayat through Hardosran, Block Dhar Kalan, District Pathankot, with the following substantive prayers:-

“I) Issue a writ in the nature of Certiorari for setting aside the letter dated 01.07.2020 (Annexure P-11) vide the respondents have passed an order to transfer the land of the petitioner and others and further ordered to make the changes revenue record in the column of ownership and cultivation by way of an administrative letter which is against the law and no provision as provided under the Punjab Village Common Land (Regulation) Act, 1961 has been complied with.

II) Issue any other appropriate writ, order or direction, as may be deemed fit in the facts and circumstances of the present case”.

At the outset, it is important to note that certain writ petitions, filed by the residents of different villages, questioning the proposed action of the State i.e., to correct the revenue record by entering mutation in favour of the Forest Department, have already been decided by a detailed judgment, on 11.02.2014 in “Rameshwar Nath and Others v. State of Punjab and Others” Civil Writ Petition No. 8706 of 1988 & other connected cases. In the aforesaid detailed judgment, the Court, after examining various issues, have decided that the property including the trees, vest in the State and are a part of the Forest. The writ petitioner, Gram Panchayat, has apart from other issues, challenged the correctness of the judgment passed by the High Court by way of the present writ petition.

It is important to note that the writ petitioner-Gram Panchayat, has an equally efficacious remedy of filing a petition under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as “the 1961 Act”):-

“11. Decision of claims of right, title or interest in Shamilat deh.-

(1) Any person claiming right, title or interest in any land, vested or deemed to have been vested in a panchayat under this Act or claiming that any land has not so vested in a Panchayat, may submit to the Collector, within such time, as may be prescribed, a statement of his claim in writing and

signed and verified in the prescribed manner and the Collector shall have jurisdiction to decide such claim in such manner as may be prescribed.

(2) Any person or a Panchayat aggrieved by an order of the Collector made under sub- section (1) may, within sixty days from the date of the order, prefer an appeal to the Commissioner in such form as manner as may be prescribed and the Commissioner may after hearing the appeal, confirm, vary or reverse the order appealed from and may pass such as he deems fit”.

It is apparent from the reading of Section 11 of the 1961 Act that the Collector has the jurisdiction to decide on the right, title or interest in the *shamlat deh* land. The petition under Section 11 is in the nature of a suit which is to be decided after granting an opportunity of filing, pleadings, leading evidence and after hearing arguments. Sub Section (2) makes a provision for filing an appeal against the order passed by the Collector.

Therefore, this Court is of the view that the writ petitioner has an equally efficacious remedy and hence, this Court should not exercise its extraordinary jurisdiction.

It is pertinent to note that the writ petitioner, apart from doubting the correctness of the judgment passed by the High Court on 11.02.2014, in ***Rameshwar Nath*** (*supra*), has also claimed that the action of the State in sanctioning mutation in favour of the forest department is illegal. In this regard, it will be noted that mutations of the land are changed as per Chapter IV of the Punjab Land Revenue Act, 1887 (hereinafter referred to as

“the 1887 Act”). Under Section 36 of the 1887 Act, the procedure for determination of disputes with respect to mutation, has been enumerated. Still further, once the order is passed sanctioning mutation, there is a provision for filing an appeal and thereafter a revision petition. Therefore, the Gram Panchayat, again, has another efficacious remedy.

Still further, the pleadings in the writ petition are laconic. The writ petitioner-Gram Panchayat, has not chosen to give details of the land in dispute. Still further, it is not the pleaded case of the Gram Panchayat that the land for which the writ petition has been filed is not covered by two notifications issued on 05.01.1904 declaring 27550 acres of land approximately to be a forest area. It is also not in dispute that the village is situated in a hilly area. It is claimed by the writ petitioner that the Sub Division Dhar is sub-mountainous.

This Court, on reading of the writ petition, has gathered an impression that the writ petition has been filed at the behest of individual owners. It will be noted here that civil litigation filed by the individual owners claiming right, title or interest in the land, has already been decided against them by this Court in Regular Second Appeal No. 2630 of 1995, decided on 30.01.2014. The review application, filed by the Gram Panchayat, the writ petitioner herein, was dismissed on 06.08.2020.

Learned counsel for the writ petitioner has submitted that the writ petitioner was not a party either to the writ petition or to the regular second appeal. He further submitted that no writ petition was filed with respect to the land of the Gram Panchayat. He further submitted that in the revenue records the nature of land is *Panchayat Deh* and the same could not

be permitted to be taken away by the State Government.

As noticed above, this Court is of the considered view that since the writ petitioner has more than one efficacious alternative remedies, therefore, it would not be appropriate for this Court to make any observations lest it prejudices the case of any of the party to the litigation. Still further, this Court is of the opinion that the claim of the writ petitioner cannot be decided without granting the parties, an opportunity of leading evidence. In view thereof, the writ petitioner, if so advised, may avail various alternative remedies available to it in accordance with law.

Hence, the present writ petition is disposed of.

The miscellaneous application(s) pending, if any, shall also stand disposed of in terms of the main order.

(Anil Kshetarpal)
Judge

September 30, 2020
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No