

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

CWP-22604-2020 (O&M)
Date of decision: 25.2.2021

Mohinder Singh

... Petitioner (s)

Versus

State of Punjab and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present: Mr. Vivek K. Thakur, Advocate,
for the petitioner (s).

Ms. Anu Chatrath, Addl. AG, Punjab.

KARAMJIT SINGH, J.

Case has been heard through video conferencing on account of
COVID-19 Pandemic.

The petitioner has filed this writ petition in the nature of
mandamus directing respondents No.1 and 2 to approve writings/resolutions
dated 19.11.1967 (Annexure P-1) and 14.7.1976 (Annexure P-2) passed by
respondent No.6-Gram Panchayat with regard to exchange of land and in
the alternative, to direct respondent No.6-Gram Panchayat to handover the
vacant possession of the land to the petitioner which was given to Gram
Panchayat by way of exchange.

It is the case of the petitioner that his father Bawa Singh was
owner in possession of land bearing Khasra No.154 (outside *Lal Lakeer*)
and Khasra No.77 (situated in abadi). On 19.11.1967, a writing/resolution
(Annexure P-1) was passed by the Gram Panchayat, as per which, Bawa

Singh gave 2 Marla of land bearing Khasra No.154 to Gram Panchayat and in its exchange, Gram Panchayat gave 16 Marla of *panchayat* land out of Khasra No.6/25 to him. Thereafter, on 14.7.1976, another agreement (Annexure P-2) was executed by Gram Panchayat, as per which, Bawa Singh gave 2 Marla of land to Gram Panchayat and in exchange, he was given 1 Kanal of land out of Khasra No.6/25 by Gram Panchayat. Bawa Singh died in 1993 and thereafter, the petitioner went abroad. Still further, a *panchayatnama* dated 12.8.2013 (Annexure P-4) was executed between the Sarpanch of the village and the petitioner with regard to the aforesaid exchange of lands. Now, the Gram Panchayat intends to forcibly dispossess the petitioner from the land measuring 1K-16M bearing Khasra No.6/25 which was given to his father by the Gram Panchayat at the time of aforesaid exchange of lands.

Ms. Anju Arora, learned Additional Advocate General, Punjab who was having advance copy of the petition, appeared on behalf of respondents No.1 to 5. Reply by way of affidavit of Amarjit Singh, Block Development and Panchayat Officer, Kapurthala was filed on behalf of the said respondents in which it was denied that any land belonging to the Gram Panchayat was exchanged with the land of Bawa Singh. Even the execution of writings dated 19.11.1967 (Annexure P-1) and 14.7.1976 (Annexure P-2) was also denied for want of knowledge. It was prayed that the writ petition be dismissed.

We have heard learned counsel for the parties.

Rule 5 of Punjab Village Common Lands (Regulation) Rules, 1964 (hereinafter referred to as, “the Rules of 1964”) reads as follows : -

Panchayat, if it is of opinion that it is necessary so to do for the benefit of the inhabitants of the village may with the prior approval of the Government transfer any land in *shamilat deh* by exchange with the land of an equivalent value.”

In the present case, the petitioner has relied upon Annexures P-1 and P-2 to show that proper resolutions were passed by GramPanchayat with regard to exchange of its lands with the lands belonging to Bawa Singh father of the petitioner. As per Rule 5 of Rules of 1964, prior approval of Government is mandatory for exchange of land belonging to Gram Panchayat. However, in the case in hand, no such prior approval of the Government was taken by Gram Panchayat. As such, exchange of panchayat lands dated 19.11.1967 and 14.7.1976 have got no legal sanctity, being in complete violation of the mandatory provisions of Rule 5 of Rules of 1964.

In the light of the above, no direction can be issued to respondents No.1 and 2 to approve the writings/ resolutions Annexures P-1 and P-2. As no exchange of lands had taken place in the eyes of law, the petitioner being legal heir of Bawa Singh, is entitled to take back his land from Gram Panchayat while the land of Gram Panchayat must revert back to it if any such exchange of lands had already taken place between the parties.

This writ petition is hereby disposed of in light of the aforementioned terms.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

February 25, 2021

Paritosh Kumar