

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

-.-

Civil Revision 1364-2021
Date of decision: 24.02.2022

Arun

.....Petitioner

Versus

State of Haryana and others

.....Respondents

Coram: Hon'ble Mr. Justice Rajbir Sehrawat

-.-

In virtual Court

Present: Mr. Saurabh Bajaj, Advocate
for the petitioner

-.-

Rajbir Sehrawat, J. (Oral)

The present revision petition has been preferred under Article 227 of the Constitution of India praying for setting aside order dated 19.02.2021, passed by the Additional District Judge, Karnal and order dated 05.10.2020, passed by the Civil Judge (Junior Division), Karnal, whereby the application filed under Order 39 Rules 1 and 2 CPC of the petitioners for ad interim injunction has been dismissed.

While relying upon the judgment rendered by this Court in **CWP No. 314 of 2001** titled '*Sh. Suraj Bhan and others. vs. State of Haryana and others*', counsel for the petitioner has submitted that since the land in question is mentioned as '*Gau Charand*' in the revenue record, therefore, the respondent-Municipal Corporation, Karnal does not have any right to change the nature of the land. It is further submitted that since the

land in question is a *shamlat deh*, therefore, the respondent-corporation does not even have any right qua the land in question. Hence, the respondent-corporation is not having a status of more than an encroacher. As such, the respondent-corporation deserves to be restrained from constructing sewage treatment plant on the land in question; which would tantamount to change of the nature of the land.

Having heard counsel for the petitioner and after having gone through the impugned orders, this Court does not find any ground to interfere with the same. Since the revisional power under Article 227 of the Constitution of India is very limited, in its scope, therefore, the orders passed by the Courts below are not to be interfered with only because the second opinion on the aspect is possible. Moreover, the Courts below have recorded in their orders that the plaintiffs themselves have not shown any thing on record to indicate even prima facie that they are having the ownership right over the property in question; in any manner. Even this is not shown that the petitioners were the proprietors having some interest in the *shamlat deh*. The land in question has already been shown to be in the name of the Municipal Corporation and there is nothing before the Courts below to show that the character of the land as '*Gau Charand*' continued even after taking over the land in question. Although, there is no dispute with regard to the proposition of law, laid down by this Court in ***Suraj Bhan's*** case (supra), relied upon by counsel for the petitioner, however, even for deriving benefit of the said judgment, the petitioner was required to show some pre-existing right qua the *shamlat deh*, being a proprietor in the estate of the village where the *shamlat* land was situated. Since the

State has a right to acquire the property, therefore, even if the sewage treatment plant is constructed on the land in question, then also, the person having any pre-existing right qua the land in question could, at the best, claim compensation for the said land.

In view of the above, finding no patent impropriety or illegality in the orders passed by the Courts below, the present revision petition is dismissed.

However, nothing stated herein-above, would have any bearing on the merit of the case qua final decision of it by the civil Court.

(Rajbir Sehrawat)
Judge

24.02.2022
Mohan Bimbura

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