

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

**CM-14058-CWP-2022 and
CM-14062-CWP-2022 in/and
CWP-9371-2022**

Date of Decision: December 06, 2022

GRAM PANCHAYAT OF VILLAGE PHALAH Petitioner

Versus

STATE OF PUNJAB AND ORS Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE RITU TAGORE**

Present: Mr. Nakul Sharma, Advocate for the petitioner.

Mr. Sandeep Jain, Addl.AG, Punjab.

Mr. A.D.S. Jattana, Advocate for respondents No. 3 and 4.

LISA GILL, J.

CM-14058-CWP-2022

Learned counsel for the applicant/respondents No. 3 and 4 does not press this application.

Application is, accordingly, dismissed as not pressed.

CWP-9371-2022 (O&M)

Prayer in this writ petition is for quashing of order dated 11.03.2022 (Annexure P7) passed by the Commissioner, SAS Nagar.

It is submitted that land measuring 35 acres belonging to the Gram Panchayat was leased out to respondents No. 3 and 4 for a period of

seven years from the year 2014. Resolution dated 26.06.2014 is attached as Annexure P1 with this writ petition. It is submitted that as per Clause 8 of the Resolution, two bores on the land were to be provided and Gram Panchayat was to incur expenditure for installation of the electricity connection. As per clause 10, it is stated that Gram Panchayat decided that as huge amount would be spent on installation of bores, lease holder would incur the expense thereon. There was a delay in providing electricity connection, therefore, it was resolved by the Gram Panchayat on 15.02.2016 that the lease would be extended by one year or till the connection is provided.

Learned counsel for the petitioner submits that lease amount for the year 2021-22 amounting to Rs.9,21,212/- was not deposited by the lease holder. Consequently, application under Section 10A of the Punjab Village Common Lands (Regulation) Act, 1961 (for short – ‘PVCL Act’) was filed alongwith the application for interim relief for restraining the respondents from cutting and removing the trees from land measuring 35 acres. Notice was issued in the above said application and it was directed by the Collector-cum-DDPO, Hoshiarpur on 10.08.2021 (Annexure P5) that respondents No. 3 and 4 would be restrained from cutting of trees till further orders. Said respondents preferred an appeal under Section 10A(7) of the PVCL Act challenging interim order. It is submitted that the Commissioner vide order dated 11.03.2022 not only vacated the interim stay but also directed that the petition be transferred to the Collector-cum-District and Development

Panchayat Officer, Kapurthala. Aggrieved therefrom, present writ petition has been filed.

Notice of motion was issued in this writ petition on 05.05.2022 and operation of the impugned order was stayed.

Learned counsel for the petitioner submits that not only did respondents No. 3 and 4 not deposit the lease amount for one year, they have also cut down about 33 Shisham trees on the land in question in violation of the terms and conditions of lease which provided that said respondents shall not cut down the 60 Shisham trees which were standing on the land. It is submitted that apart from the fact that there was no question of transferring the matter to the Collector-cum-DDPO, Kapurthala from Hoshiarpur, as of now the then Officer has since retired and it is another Officer, who is in his place at Hoshiarpur. Therefore, the impugned order has been incorrectly passed. It is, thus, prayed that this petition be allowed.

Learned counsel for respondents No. 3 and 4 while refuting the arguments raised on behalf of the petitioner submits that there is no question of deposit of any lease money for the extra year i.e. the eighth year for the reason that as per resolution dated 15.02.2016 passed by the Gram Panchayat, it was clearly resolved by the Gram Panchayat that the leaseholder would be exempted from paying the lease amount for one year or till provision of electricity connection. It is further contended that absolutely incorrect and false allegations have been raised regarding cutting down of 33 Shisham trees. Three of the Shisham trees had been washed off.

Rest of the 57 trees are very much present and existing at the spot. Learned

counsel for respondents No.3 and 4 submits that in view of the fact that the then Collector-cum-DDPO, Kapurthala is no longer in office at this stage, there is no objection to the matter being decided by the DDPO, Hoshiarpur. Learned counsel for respondents No.3 and 4 submits that said respondents undertake that none of the existing trees on 35 acres of land shall be felled by the respondents till final decision by the Collector.

Keeping in view the facts and circumstances, this petition is disposed of with a direction that application under Section 10A of the PVCL Act filed by the petitioner be decided by the Collector-cum-DDPO, Hoshiarpur expeditiously and definitely within four weeks.

Affidavit in terms of the undertaking by the respondents regarding felling of trees be filed within one week. In case, it is found that the respondents have felled/cut down any tree during the interregnum, needless to say, necessary action can be initiated against them.

All pending applications are disposed of accordingly.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

December 06, 2022

rts

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No