

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 12313 of 2019(O&M)
Date of Decision:21.11.2022

Gurmail Singh and others

.....Petitioners

Versus

State of Punjab and others

..... Respondents

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

Present: Mr. Shivam Sharma, Advocate
for Mr. Mohinder Singh Joshi, Advocate
for the petitioners.

Mr. Sandeep Jain, Addl.AG., Punjab.

Mr. Ramandeep, Advocate
for respondent no.4.

LISA GILL, J(Oral).

Prayer in this writ petition is for setting aside order dated 03.04.2019, Annexure P-10, passed by the Joint Development Commissioner, Punjab, SAS Nagar Mohali, to the extent there is a direction for recovery of less amount for auction of Shamilat land of village Bathoi Khurd. Challenge is also laid to memo dated 11.04.2019, Annexure P-11, wherein recovery of Rs. 3,90,000/- is directed to be affected from the petitioners without any reference to rates which may have been determined by the District Price Fixation Committee (for short 'DPFC').

Brief facts as stated in the writ petition are that Member

Parliament, Patiala, sanctioned grant to the Gram Panchayat for installation

of Electric Crematorium in the village cremation ground. The project, it is stated could not be completed with the said grant. Thus, respondent-Gram Panchayat not having sufficient funds sought permission to auction Shamilat land vide resolution dated 01.10.2017. Permission to auction 18 acres Shamilat land was afforded vide memo dated 13.10.2017. It is stated that under the supervision of District Development and Panchayat Officer (for short 'DDPO') Patiala, auction proceedings were conducted on 30.10.2017 for the year 2018-19 after issuance of advertisement and conducting of proclamation/munadi in the village. The petitioners and persons mentioned in para 6 of the writ petition stated to be the highest bidders deposited a sum of Rs. 3,10,000/- as lease amount. It is stated that one Subash Sharma filed a petition under Section 10-A of the Punjab Village Common Lands (Regulation) Act, 1961 (for short 'the Act') challenging the abovesaid auction proceedings.

The said petition was allowed by the Collector/ DDPO, Patiala on 08.06.2018, Annexure P-5. It was observed that the Gram Panchayat had not conducted the auction in accordance with the procedure established by law. Reference was made to a bank draft for a sum of Rs. 7,00,000/- which was deposited by Gurpreet Singh son of Nachhattar Singh and others with the statement that they were ready and willing to take the disputed land on lease for the year 2018-19 for a sum of Rs. 7,00,000/-.

The auction conducted on 30.10.2017 was set aside and it was directed that the lease amount deposited by the *Chakotedars/lessees* be returned to them. The Collector directed that after fixation of the reserved price for Rs. 7,00,000/- for 18 acres of land, public auction be conducted again and in case, any other bidder does not exceed the bid of Rs. 7,00,000/-,

Gurpreet Singh son of Nachhattar Singh and others, who deposited the

amount of Rs. 7,00,000/- be permitted to cultivate the land as lessees for the year 2018-19.

Order dated 08.06.2018, was challenged by the petitioners and two others. The same was dismissed by the Joint Development Commissioner, Punjab (for short 'JDC') vide order dated 03.04.2019, Annexure P-10. However, it was observed that the direction in order dated 08.06.2018 passed by the Collector that the person who has deposited Rs. 7,00,000/- as lease money for the disputed land, may be permitted to cultivate the land for the period 2018-19, was not in accordance with law as it was required that publication in the newspapers and Munadi/ Proclamation be carried out before letting out the land on lease. The said direction was thus set aside. It was further directed that in case the lease amount for the year 2018-19 in the auction which was set aside was less than the amount determined by the DPFC, the same be recovered from the present petitioners as per law.

Pursuant to order dated 03.04.2019, communication dated 11.04.2019 was issued by the DDPO, Patiala to Block Development and Panchayat Officer, Patiala, directing that a sum of Rs. 3,90,000/- be recovered from the present petitioners and two others.

Aggrieved of the direction of recovery of Rs. 3,90,000/- from the petitioners, present writ petition has been filed.

It is argued that there is no basis for seeking recovery of Rs. 3,90,000/- as there is nothing on record to indicate that the lease amount of Rs. 3,90,000/- was less than the price fixed by the DPFC. Merely because a sum of Rs. 7,00,000/- has been deposited by any other person, the same cannot be taken to be the price determined by the DPFC and recovery of Rs. 3,90,000/- ordered on that basis.

Short reply by way of affidavit dated 21.11.2022 of Mr. Sukhchain Singh, Collector/ DDPO, Patiala, filed on behalf of respondents no.1 to 3 with a copy thereof to learned counsel for the petitioners in Court today is taken on record subject to just exceptions.

As per the abovesaid reply filed on behalf of respondents no.1 to 3, it is affirmed and verified that the amount of Rs. 3,10,000/- was deposited by the petitioners with the Gram Panchayat. There was no refund of the same. The petitioners continued in possession of the land for the lease period and that as of now no amount is due from the petitioners. It is to be noted that as per affidavit dated 11.05.2019 of the petitioners, possession of the entire area of the Shamilat land taken on lease has been restored to the respondent-Gram Panchayat. Same is not refuted.

In view of the specific reply filed on behalf of respondents no.1 to 3 to the effect that no recovery of any amount is being effected from the petitioners, no further orders are called for in this writ petition which is rendered infructuous.

Writ petition is accordingly disposed of.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

November 21, 2022.
s.khan

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.