

CWP No.12549 of 2022

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CWP No.12549 of 2022  
Date of decision : 01.06.2022

Jaspal Singh & another

.....Petitioners

VERSUS

State of Punjab and others

....Respondents

**CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH  
HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Raj Kumar Garg, Advocate  
for the petitioners.

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**AUGUSTINE GEORGE MASIH, J.**

This writ petition has been filed for quashing of the order/resolution dated 17.02.2022 (Annexure P-9), vide which the Gram Panchayat Ramgarh Rurki, Block Dera Bassi, Tehsil Rajpura, District Patiala – respondent No.6 has rejected the representation/legal notice of the petitioners, dated 15.01.2022, for purchase of the land which is in illegal possession of the petitioners in accordance with law on the ground that the Gram Panchayat cannot sell the public property to any person as it is very valuable and can be used for very important common purposes specially in the light of the fact that the land is adjoining to the gate of the school.

2. Brief facts of the case are that a petition under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as '1961 Act') was filed by the Gram Panchayat Ramgarh Rurki, Block Dera Bassi, Tehsil Rajpura, District Patiala – respondent No.6 which was accepted by the Competent Authority and order of eviction was passed on

03.01.1994. The said order attained finality.

3. Petitioners, thereafter, filed a petition under Section 11 of the 1961 Act, on 25.03.2003, before the Collector, Patiala, claiming protection under Section 4 (3) (ii) of the 1961 Act. The Collector, vide order dated 16.01.2006 (Annexure P-2) concluded that the petitioners were in illegal possession of the disputed land and had no right as they have not been able to prove their possession over the land prior to 26.01.1950. In the concluding paragraph, Divisional Deputy Director, Village Development and Panchayat, Patiala, exercising the power of the Collector, has categorically held that the disputed land is *shamlat deh* and is the ownership of the Nagar Panchayat. But, since the petitioners were in possession of the land since long and have made manure pits thereon, they may get the collector rate assessed within three months and the amount be got deposited in the Panchayat Fund and in case the needful is not done within the said period, the suit to be considered as dismissed.

4. On the basis of the said order, an application was submitted to the Tehsildar, Dera Bassi, by the petitioners, who assessed the market price of the area as ₹8,00,000/- per acre on 10.04.2006 (Annexure P-3). In pursuance to the said assessed amount, petitioners approached the authorities and deposited an amount of ₹60,000/- with the Administrator, Gram Panchayat, Ramgarh Rurki, Tehsil Dera Bassi, on 15.05.2006 (Annexure P-4) in form-IV. It would not be out of way to mention here that in the said receipt itself, it has been mentioned that the matter is pending before the Director, Panchayat, Punjab, as an appeal has been preferred by the Gram Panchayat against the said order dated 16.01.2006 (Annexure P-2).

5. The appeal preferred by the Gram Panchayat Ramgarh Rurki, Block Dera Bassi, Tehsil Rajpura, District Patiala – respondent No.6 was accepted by the Commissioner vide order dated 12.12.2008 (Annexure P-5) and the observations made by the Collector in its order dated 16.01.2006 (Annexure P-2) with regard to assessment of the value of the land and deposit of the said amount with the Gram Panchayat in favour of the petitioners were set aside as the said authority had exceeded its jurisdiction. It was further observed that the Civil Court has also returned a finding in an injunction order dated 24.01.2003 that the petitioners were in illegal possession of the land. That apart, it was mentioned that the petition of the Gram Panchayat under Section 7 of the 1961 Act has been successful ordering their eviction on 03.01.1994

6. Petitioners filed CWP No.16299 of 2010 challenging the order dated 12.12.2008 (Annexure P-4) passed by the Director, Rural Development and Panchayat, Punjab. The said writ petition was disposed of by this Court vide order dated 30.09.2010 (Annexure P-6), wherein the counsel for the Gram Panchayat stated that he has no objection if the petitioners are allowed to approach the Gram Panchayat for purchase of the land in accordance with law. The Court, on the basis of this statement, proceeded to pass the order, relevant part thereof reads as follows:-

“In view of the limited nature of the prayer made by the petitioners and the statement made by counsel for the Gram Panchayat, the writ petition is disposed of, with liberty to the petitioners to approach the Gram Panchayat for purchase of the land by filing an appropriate application, in accordance with law. In case, an application is filed within one month, it shall be

considered and decided by the Gram Panchayat within two months thereafter.

Dispossession of the petitioners shall remain stayed during the period of three months. This order, however, shall not be construed to be an expression of opinion on the rights of the petitioners or the Gram Panchayat.”

Although it is the stand of the petitioners that they had filed a representation dated 06.11.2010 (Annexure P-7) to the Sarpanch of the Gram Panchayat Ramgarh Rurki, Block Dera Bassi, Tehsil Rajpura, District Patiala – respondent No.6 but this fact is disputed by the Gram Panchayat as is apparent from the reply which has been filed by the Gram Panchayat to a contempt petition which was preferred by the petitioners i.e. COCP No.457 of 2022 claiming non-compliance of the order passed by this Court in the above-mentioned writ petition vide order dated 30.09.2010. It is only just prior to filing of the contempt petition that a legal notice dated 15.01.2022 had been served upon the respondents by the petitioners, which is a notice for proceeding against them for contempt, which the Gram Panchayat has considered and declined vide resolution No.1 dated 17.02.2022 (Annexure P-9), which has been challenged by the petitioners in the present writ petition.

7. Learned counsel for the petitioners has sought to project the case of the petitioners by asserting that the reasons which have been assigned for rejecting the legal notice/representation of the petitioners is not sustainable in the light of the fact that there was a statement given by the counsel for the Gram Panchayat that the Gram Panchayat had no objection if the petitioners are allowed to approach it for purchase of land in accordance

with law. The Court had accordingly permitted the petitioners to file an appropriate application. In pursuance thereto, an application had been filed which was not considered by the Gram Panchayat and it is then a legal notice was served on 15.01.2022 which has been considered and decided by the Gram Panchayat by rejecting the same. Once an opportunity has been given to the petitioners to purchase the land rather in pursuance to the order dated 16.01.2006 passed by the Collector-cum-Divisional Deputy Director, Rural Development and Panchayat Department, Patiala, which has been virtually reiterated by the High Court, on an application moved by the petitioners, the amount has also been assessed on 10.04.2006 (Annexure P-3), which also stood deposited, Gram Panchayat Ramgarh Rurki, Block Dera Bassi, Tehsil Rajpura, District Patiala – respondent No.6 had no reason to reject the claim of the petitioners. Counsel, thus, contends that the impugned resolution of the Gram Panchayat dated 17.02.2022 (Annexure P-9) cannot sustain and deserves to be set aside.

8. We have considered the submissions made by the learned counsel for the petitioners and with his assistance have gone through the records of the case as also the pleadings.

9. As is apparent from the facts as referred to above, after the passing of the order dated 30.09.2010 (Annexure P-6) in the writ petition preferred by the petitioners, according to the stand of the Gram Panchayat, no such representation has been received except for the legal notice and that too, dated 15.01.2022. Order dated 30.09.2010 passed by this Court was a conditional order, wherein the petitioners were granted liberty to approach the Gram Panchayat for purchase of the land by filing an

appropriate application within one month in accordance with law. It is, under these circumstance and on an application being moved by the petitioners, the same was to be considered by the Gram Panchayat within two months thereafter. It would not be out of way to mention here that the Court had clarified that this order shall not be construed to be an expression of opinion on the rights of the petitioners or the Gram Panchayat nor was it expressed that the order passed by the Collector, Patiala, dated 16.01.2006 (Annexure P-2) would operate. The Court had only granted liberty to the petitioners and that too to purchase the land in accordance with law.

10. The process for purchase of the land has been laid down in the 1961 Act and the Rules framed thereunder, according to which not only the Gram Panchayat has to accept the said request of the encroacher of the land for purchase of the *shamlat deh* land but the same has also to be approved by the State Government and it is, then and only then, that the *shamlat deh* land can be purchased/sold by the Gram Panchayat. Admittedly, in this case, there is no resolution passed by the Gram Panchayat accepting the request of the petitioners for purchase of the land, rather the Gram Panchayat, vide its resolution dated 17.02.2022 (Annexure P-9) has rejected the request of the petitioners. While rejecting the said prayer/request/legal notice dated 15.01.2022, reasons have also been given. The said reasons are fully justified as the Gram Panchayat has found the land in question to be very valuable for the Gram Panchayat and the same can be used for important common purposes for the residents especially keeping in view the location of the land i.e. being adjoining to the gate of the school. The resolution as has been passed by the Gram Panchayat is in the interest of

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the residents of the Gram Panchayat and therefore, cannot be faulted with.

11. In any case, the petitioners have no right to the land in question which is *shamla deh*, qua which not only a valid order of eviction has been passed against them by the Competent Authority on 03.01.1994 but their petition under Section 11 of the 1961 Act for declaring that they are owners in possession of the land has also been dismissed by the Competent Authority, which order still holds the field. The order which has been passed by this Court in CWP No.16299 of 2010 (Annexure P-6) has also not quashed/set aside the order dated 12.12.2008 (Annexure P-5) passed by the Commissioner-cum-Director, Rural Development and Panchayat Officer, Punjab.

12. In view of the above, finding no merit in the present writ petition, the same stands dismissed.

13. In the light of the dismissal of the present writ petition, it is held that the petitioners are in illegal possession of the land of the Gram Panchayat and despite an order dated 03.01.1994 passed by the Competent Authority for eviction of the petitioners from the land in question in a petition preferred under Section 7 of the 1961 Act by the Gram Panchayat, till date the possession has not been taken/handed over to the Gram Panchayat. Therefore, immediate steps be taken by the respondents for taking the possession of the land in question which is still in illegal possession of the petitioners.

This exercise be completed within a period of four months and a compliance report submitted to this Court within a further period of four weeks by the Secretary to the Government of Punjab, Department of Rural

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Development and Panchayat, Mohali – respondent No.1 and Director,  
Rural Development and Panchayat, Punjab – respondent No.2. Copy of this  
order be sent to the respondents for information and compliance forthwith.

(AUGUSTINE GEORGE MASIH)  
JUDGE

01.06.2022  
Harish

(SANDEEP MOUDGIL)  
JUDGE

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|----------------------------------|---------------|
| <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether reportable</i>        | <i>Yes/No</i> |