

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

CWP-5982-2018 (O&M)
Date of Decision: October 31, 2022

SANJAY

..... Petitioner

Versus

STATE OF HARYANA AND OTHERS

..... Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE HARSH BUNGER**

Present: Mr. V.P. Sangwan, Advocate for the petitioner.

Mr. Amit Aggarwal, DAG, Haryana.

Mr. Amardeep Sheoran, Advocate for respondents No. 6 to 9.

LISA GILL, J.

It is submitted that petitioner has filed a petition under Section 13A of the Punjab Village Common Lands (Regulation) Act, 1961 [now Haryana Village Common Lands (Regulation) Act, 1961 as notified on 05.04.2021 (for short – ‘HVCL Act’)] in the year 2016 which is still pending adjudication. Final decision has not been taken thereon till date for no fault on the part of the petitioner. There is a further prayer for directing the respondent – authorities to ensure deposit of 10% as compensation of annual lease amount, to be deposited by the Contractor with the Gram Panchayat for mining of area in question.

It is submitted that land measuring 921 kanal 8 marlas (Gair Mumkin Pahar) situated within the revenue estate of Pichopa Kalan vests in

the Gram Panchayat Pichopa Kalan, being shamlat deh. It is stated that the said land was divided into two mining plots and allotted in an open auction to different companies/contractors for extraction of minerals. As per Haryana Minor Mineral Concession, Stocking, Transportation of Mineral and Prevention of Illegal Mining Rules, 2012, Contractor is required to pay compensation to the land owner to the extent of 10% of the annual lease amount and in the present case, the Gram Panchayat is asserted to be entitled to receive compensation for the land, which has been allotted for extraction of minerals.

Learned counsel for the petitioner submits that due to incorrect entries in the revenue records some persons had alienated their share in the common land to other persons on the basis of which stone crushers after obtaining No Objection Certificate from the concerned department have been established illegally. It is averred that receipt of compensation by the persons incorrectly recorded in the revenue record is illegal whereas the same should be deposited with respondent No. 5 – Gram Panchayat. Petitioner, it is submitted, earlier filed CWP-11295-2016 in this respect, which was disposed of on 01.06.2016 with the observation that such question regarding vesting of land in question with Gram Panchayat can be adjudicated effectively by the Court of Collector under the HVCL Act, therefore, the petitioner was relegated to the said remedy. It was further observed that such petition, if filed, be decided in accordance with law preferably within six months from the date of its filing. Petitioner thereafter filed suit for declaration under Section 13A of the HVCL Act in 2016 alongwith application seeking interim relief that the compensation for the land in question be deposited with the Gram Panchayat.

Learned counsel for the petitioner while reiterating that the matter has been hanging fire due to no fault on the part of the petitioner, however, submits that the matter is now listed before the Collector, Charkhi Dadri for arguments on 16.11.2022 and that arguments on behalf of the petitioner shall be addressed on the said date. It is prayed that the matter be finally decided expeditiously with the amount of compensation being directed to be deposited with the Gram Panchayat in the interregnum.

Keeping in view the facts and circumstances as above but without expressing any opinion on the merits of the matter, it is directed that petition under Section 13A of HVCL Act be finally decided by the competent authority expeditiously and definitely within a period of three months from 16.11.2022. At this stage, we do not find it expedient to direct deposit of compensation in the account of Gram Panchayat for this period.

Writ petition is disposed of accordingly.

(LISA GILL)
JUDGE

October 31, 2022

Rts

(HARSH BUNGER)
JUDGE

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