

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

I. **COCp-1672-2018 (O&M)**
Reserved on : April 11, 2023
Date of Pronouncement : April 27, 2023

Raja Shivdev Inder SinghPetitioner
Vs.
Karan Avtar Singh and others ...Respondents

II. **COCp-1902-2018**

Karanvir Singh RaiPetitioner
Vs.
Karan Avtar Singh and others ...Respondents

III. **COCp-1903-2018**

Surinder KaurPetitioner
Vs.
Karan Avtar Singh and others ...Respondents

IV. **COCp-1904-2018**

Brig. Ajay Singh PanwarPetitioner
Vs.
Karan Avtar Singh and others ...Respondents

V. **COCp-1905-2018**

Dr. Akhil Bhargava and anotherPetitioners
Vs.
Karan Avtar Singh and others ...Respondents

VI.

COCp-1906-2018

Bhupinder Pal Singh
Vs.
Karan Avtar Singh and others

.....Petitioner
...Respondents

VII.

COCp-3085-2018

Kulwant Singh Pama
Vs.
Karan Avtar Singh and others

.....Petitioner
...Respondents

VIII.

COCp-3784-2018

Tejinder Singh
Vs.
Karan Avtar Singh and others

.....Petitioner
...Respondents

IX.

COCp-3802-2018

Jasjit Singh and another
Vs.
Karan Avtar Singh and others

.....Petitioners
....Respondents

X.

COCp-3792-2018

Hardyal Singh Cheema and others
Vs.
Karan Avtar Singh and others

.....Petitioners
...Respondents

XI.

COCp-3800-2018

Bikramjit Singh Bawa
Vs.
Karan Avtar Singh and others

.....Petitioner
...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. G.S. Bhandari, Advocate for the petitioners
(in COCP-1672-2018).

Mr. Rahul Vijay Singh Chugh, Advocate for the petitioners
(in COCP-3085-2018)

Mr. Aman Kashyap, Advocate for the petitioner
(in COCP-1902 to 1906, 3784, 3802, 3792 and 3800-2018)

Mr. Ayush Sarna, AAG, Punjab.

ARVIND SINGH SANGWAN, J.

The petitioners allege the non-compliance of the judgment dated 8.2.2017 passed in CWP-17216-2016 titled as "*Raja Shivdev Inder Singh Vs. State of Punjab and another*".

As per the judgment, the petitioner has sought quashing of notification dated 3.2.2003 and the subsequent corrigendum modifying the impugned notification on the ground that the land of the petitioners for the purpose of cultivation be excluded from the purview of Punjab Land Preservation Act, 1990 (for short 'PLP Act').

The writ petition, along with the bunch of other writ petitions, was disposed of on 8.2.2017 with the following directions :-

"In the circumstances, it would be just and expedient to uphold the impugned notifications dated 23.09.1914 and 20.11.1950 issued under Section 3 as the also the notification dated 03.02.2003 issued under Section 4 of the PLP Act.

The reasons for upholding the Section 3 notifications are that these were issued several years earlier and challenge to the same has been dismissed

by this Court on the ground of delay in B.S. Sandhu's case (supra) and Harmesh Kumar's case (supra), which orders have been upheld by Hon'ble the Supreme Court vide order dated 25.05.2015 passed in Dashmesh Educational Society v. Punjab Urban Development Authority and others (supra).

The notification dated 03.02.2003 issued under Section 4 of the PLP Act even though it is not shown that the State Government had satisfied itself after due enquiry that the regulations, restrictions, prohibitions or directions contained in the said notification dated 03.02.2003 were necessary

for the purpose of giving effect to the provisions of the PLP Act but nevertheless the notification is not to be invalidated at this stage as it espouses a public cause as also the fact that it was issued about fourteen years back and the duration of same is for fifteen years till 2018, which is about to expire.

The State Government shall, however, preferably before the expiry of the period of fifteen years from the date of notification dated 03.02.2003 and in any case within a period of one year from the date of receipt of copy of the judgment, carry out an exercise for consideration as to whether it is desirable to continue with the directions of the PLP Act in an area for the conservation of sub-soil water and prevention of erosion in any area subject to erosion or likely to become liable to erosion and further satisfy itself after due enquiry whether the

regulations, restrictions, prohibitions and/or directions by general or special order are necessary within the notified areas for the purpose of giving effect to the provisions of the PLP Act. In case these are to be continued, then the procedure provided by the PLP Act must be adhered to and followed by making necessary publication in the official

gazette and also a proclamation of the regulations, restrictions, prohibitions or directions in the area in respect of which a notification has been published under Section 3 and that upon such publication any general order made under Sections 4 or 5-A has become applicable to such area or any special order under Sections 4, 5 or 5-A is made in respect of such area.

It shall also be determined by the State Government as to whether the lands in question are 'forest' or 'forest land' primarily in terms of the provisions of the Indian Forest Act, 1927, the Forest (Conservation) Act, 1980 etc. as also the judgments of the Supreme Court in B.S. Sandhu v. Government of India (supra), which is reiterated in Dashmesh Educational Society v. Punjab Urban Development Authority and others (supra) as also in Tanu Bedi v. B.S. Sandhu and others (supra); besides, T.N. Godavarman Thirumulkpad v. Union of India and others (supra). The exercise of payment of compensation to the land owners whose land has been locked by the provisions of the PLP Act shall also be carried out in accordance with the provisions

of Sections 14 and 15 and all land owners or affected persons entitled for compensation shall be paid the compensation, which shall be restricted to a period of three years from the date of filing the petitions by them or on their behalf.

The writ petitions are accordingly disposed of in the above terms.”

Counsel for the petitioners have argued that the respondents were restrained from issuing fresh notification under Sections 3 and 4 of the PLP Act before expiry of the 15 years, that too after determining whether it is desirable to continue the restriction by conducting a proper enquiry. It is also stated that the payment of compensation to the land owners, whose land has been locked by the Government under PLP Act is also not released.

Affidavit of the Principal Chief Conservator of Forests, Department of Forests and Wildlife Preservation, Mohali is on record, wherein it is stated that a scientific exercise by way of survey was conducted under the PLP Act through two reputed organizations, i.e. Soil and Land Use, Survey of India (SLUSI), New Delhi dated 15.1.2018 (Annexure R3-1) as well as Indian Institute of Soil and Water Conservation Research Centre (IISWCRC), Chandigarh (Annexure R3-4).

It is stated that as per the report, the department has recommended closure of the areas of the village under PLP Act, which were affected by severe categories of soil erosion. Thereafter, in due compliance, the State Government by adhering to the procedure provided under the PLP Act, published an order in the official gazette dated 2.2.2018 to prohibit certain acts within notified area, temporarily for a period of 15 years giving effect to the provisions PLP Act and, therefore, the respondents have followed the proper procedure under

the PLP Act. It is also stated that as per the reports by the two organisations, the land of the petitioners was found to be affected by severe category of soil erosion.

It is stated that the Government will provide the following benefits to the land owners :-

"The Management Plan provide a host of benefits to the land owners which inter alia include :-

- i. Undertaking measures to prevent degradation of ecologically fragile ecosystem and also undertake measures to conserve and improve biodiversity and the wildlife habitat.
- ii. Implementing technical works to prevent soil erosion, conserve soil and sub soil moisture.
- iii. Conservation of natural regeneration and undertaking artificial regeneration.
- iv. Promoting measures to enhance productivity of the closed/forest areas through qualitative and quantitative improvements.
- v. Issuing permits to the land owners in respect of the regulated, restricted and prohibited activities for their *bona fide* purposes and also sale of trees for their income.
- vi. To ensure active community participation.
- vii. To create awareness and Eco-education through Eco-tourism and other measures.
- viii. To provide gainful employment to the people of the area and undertake capacity building of the stakeholders through trainings, self help groups and entry point activities.

It is further stated that the land in the villages falling in SAS Nagar, including the land of the petitioners in village Majrian, the Forest Survey of India, Ministry of Environment and Forests, Dehradun has also submitted reports Annexures R3-6 to R3-8, according to which the land of the petitioners is notified under the PLP Act as 'forest land' and thereafter, the Collector-cum-Deputy Commissioner, SAS Nagar, Mohali invited the claim for compensation from the affected land owners by publishing it in newspapers dated 20.3.2018 and 28.3.2018. After receiving the claim by speaking order (Annexure R3-11), the same was disposed of.

A categorical stand is taken by the respondents that the petitioners have neither filed any claim nor have submitted any proof of filing the claim before the competent authority and, therefore, in terms of Section 7(2) of the PLP Act, i.e. if any claim is not preferred within the time fixed in the proclamation made under Sub-section(1), shall be rejected. It is submitted that even after the expiry of the period, no such claim was filed for which, the Commissioner was competent to accord the sanction. It is, thus, stated that the proper compliance of the order has been made. The respondents have also relied upon certain judgments of the Hon'ble Supreme Court regarding the declaration of the land as 'forest land'. It is submitted that as per the judgment of Hon'ble the Supreme Court passed in Writ Petition (Civil) 202 of 1995 titled as **T.N. Godavarman Thirumulpad Vs. Union of India and others** dated 12.12.1996, it is held that the use of land under the forest cannot be changed and cannot be utilized for any non-forest purposes, i.e. for cultivation, construction, mining or other related activities, except with prior approval of the Central Government under the Forest Conservation Act.

It is also stated that a case under Section 7 of the Punjab Village Common Land Act is also filed against the petitioners for seeking

their eviction from the Gram Panchayat land and the petitioners have not submitted any proposal for diversion of land or their ownership for non-forest purpose under the Forest Conservation Act and, therefore, no willful disobedience is made out.

It is noticed that these contempt petitions are pending since 2018 and the primary grievance in these petitions is that a notification under Sections 3 and 4 of the PLP Act putting restriction for eviction or direction prior to expiry of the period of 15 years from 3.2.2003 is in violation of the directions contained in judgment dated 8.2.2017.

After hearing counsel for the parties, considering the stand taken by the respondents that after getting the scientific survey done by the two Government of India's agencies, a management plan was prepared for the benefit of the land owners, as noticed above, and the petitioners have not preferred any claim in response to the notice published in the newspapers dated 20.3.2018 and 28.3.2018 and, therefore, as per Section 7 (2) of the PLA Act, the respondents are not bound to consider the case of the petitioners, as they themselves have defaulted in not filing a claim.

Therefore, no willful disobedience is made out.

Dismissed.

April 27, 2023
satish

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned : YES / NO

Whether reportable : YES / NO