

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

115

CWP-7120-2022 (O & M)
Date of Decision: 09.01.2023

JARNAIL SINGH

....PETITIONER

Versus

STATE OF HARYANA AND OTHERS

....RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. Vikram Singh, Advocate
for the petitioner.

Mr. Raman Sharma, Addl. A.G., Haryana.

Mr. Krishan Singh, Advocate
for Parjapat Dharamshala.

Mr. Sandeep Siwach, Advocate
for the applicant-proposed respondents No. 8 to 16.

SURESHWAR THAKUR, J. (ORAL)

1. The existence of a village pond or Johar on Khasra No. 221
is not disputed amongst the parties at contest.

2. Moreover, it is also not disputed amongst the parties at
contest, that in the revenue records, the above said khasra number, has
been assigned the classification of a village pond or a Johar. Therefore,
the above public pond or Johar was not amenable for being used for any
purpose other than the purpose, for which it has been classified, in the
revenue records concerned.

3. Be that as it may, though there has been change of user of village pond or Johar from the one for which it has been raised on Khasra No.221, rather to an alternative purpose, inasmuch as, a village community hall meant for the user of backward classes becoming raised thereons.

4. However, the learned State counsel, on instructions given to him, by the Competent Authorities concerned, submits that the above change of user has happened in the wake of resolutions being passed by the Gram Sabha of the Gram Panchayat concerned. Nonetheless, he submits that no sanction or approval thereto has been granted by the learned Collector concerned.

5. Learned counsel appearing for the contesting litigants submits that since there is an admitted change of user of the disputed khasra number, from the one qua which it was reserved, rather for some other purpose, but prima facie the said change of user is also for the benefit of the village community.

6. Furthermore, the learned State counsel on instructions given to him submits, that not only the changed user of khasra no. 221 would be forthwith accorded approval by the learned Collector concerned, but also the Gram Panchayat concerned, shall be directed by the learned Collector concerned, to, in the vicinity of the site concerned, also create a pond meant for the common purposes of the village proprietary body.

7. In consonance, this Court directs the learned State Counsel to ensure that the promptest approval or sanction by the District Collector concerned, is granted to the changed user of the village pond

or Johar, to a village community hall being raised thereons.

8. Moreover, the learned State counsel is also directed to ensure that the Collector of the District concerned, ensures that within two months from today, a village pond or Johar capturing therein clean water is constructed, and, that the same is ensured to be used for the common benefit of the village proprietary body.

9. It is also clarified that any encroachments made by any person concerned on Khasra No. 221 shall also be ensured to be forthwith removed, through the Gram Panchayat concerned, moving an application, cast under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961, before the Competent Authority concerned. The same shall be decided promptly but in accordance with law. However, if the said application is yet subjudice before the Competent Authorities concerned, thereupon, the same shall also be forthwith decided.

10. Till a decision is made on the Section 7 petition, by the Statutory Authority concerned, thereupto no coercive action be drawn against the encroachers concerned.

11. Lastly, it is clarified that the above made order shall not be treated as a precedent, as it has been made only in view of a direction being made upon the respondents concerned, to construct a Johar or pond in the vicinity to the site concerned.

12. Furthermore, it is also clarified that the pond or Johar at the alternative site be raised thereons, but positively within two months.

13. Disposed of accordingly.

14. Since the main case itself has been decided, all the pending

application(s), if any, also stand(s) disposed of.

(SURESHWAR THAKUR)
JUDGE

09.01.2023
kavneet singh

(KULDEEP TIWARI)
JUDGE

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