

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

CWP-12781-2017

Reserved on: 23.01.2023

Pronounced on: 03.02.2023

Jagir Singh

.....Petitioner

Versus

State of Punjab and Others

.....Respondents

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

Argued by: Mr. Vinod K. Kataria, Advocate
for the petitioner.

Ms. Monika Jalota, Sr. DAG, Punjab.

Mr. Amrik Singh, Advocate
for respondent No. 6.

Mr. Gopal Sharma, Advocate
for respondent No. 7.

SURESHWAR THAKUR, J.

Factual Background

1. The petitioner herein instituted a petition under Section 10 of the Punjab Village Common Lands (Regulation) Act, 1961, before the Collector concerned, seeking cancellation of lease auction of *Mustarka Malkan* land, measuring 7 Acres 4 Kanal.

2. The District Development and Panchayat Officer, Fatehgarh Sahib, as revealed by Annexure P-13, granted approval to the Block Development and Panchayat Officer, Bassi Pathana, to make auction of lands falling in khasra No. 8//1(7-11), 2(8-0), 4/1(1-12), 7//5/2(2-15), 8//8/2 Min (1-12), 9/1(8-0), 10/2(7-13), 11/1(3-4), 12(8-

0), 12/1(1-12), 7//5(2-15), total 7-3-8 Rakba. The tenure of the leased lands to be allotted to the successful auction bidders, is mentioned in Annexure P-13, to span over a period of seven years.

3. In pursuance to the above made directions, to the Block Development and Panchayat Officer, Bassi Pathana, by the District Development and Panchayat Officer, Fatehgarh Sahib, and, as becomes enclosed in Annexure P-13, did result, in the auction of the land being held on 07.06.2016, and, then the highest bid of the private respondents herein, became accepted, resulting in a *patta*, in respect of the petition lands, becoming drawn in their favour. The said *patta*, is appended as Annexure P-16, to the petition. However, the petitioner became aggrieved, both from holding of the auction proceeding, besides also became aggrieved from the drawing of *patta*, as enclosed in Annexure P-16, in favour of the private respondents. The grievance, as raised by the petitioner herein, became rested on the factum, that Rule 6(2) of the Punjab Village Common Lands (Regulation) Rules, 1964, provisions whereof became extracted hereinafter, rather being breached.

6. Leases to be by auction [5 and 15(2) (f)]:.

(1) xxxxxxxxxx

(2) Lease of land in Shamlat Deh already under plough shall not be given for a period exceeding three years, while that of land not tinder plough and infested with trees bushes, etc. may be given for a period not exceeding seven years to the highest bidder. The auction shall be subject to the approval of -

(a) the Panchayat Samiti (1) where the area does not exceed one hundred acres and the highest bid of the lease

at the auction is less than the average [rate of the similar Shamlat lands in the preceding year.

(ii) where the area exceeds 100 at but does not exceed 500

(b) the Zila Parishad - Where the area exceeds 500 acres, but does not exceed 1,000 acres:

(c) the Government :- where the area exceed 1000 acres.

Provided that the Panchayat shall, within seven days of the date of auction, apply for approval of Panchayat Samiti, Zila Parishad or the Government, as the case may be, which shall accord the approval within a period not exceeding one month from the date of auction of the lease.

Provided further that on the application of the lease made before the expiry of the lease, the Panchayat may renew the lease for a period not exceeding two years at a time if it considers that renewal of lease is in the interest of better cultivation and is satisfied that the lessee has made improvements by rendering such land fit for cultivation or has made improvements by digging a well or installing a pumping set or tube-well or constructing a pucca structure on such land;

Provided further that the annual rent of such land for which lease has been renewed shall be determined by the Collector or the officer appointed by him for the purpose on the basis of market rental value of shamlat lands in the neighbourhood.”

Submissions of the learned counsel for the petitioner.

4. The counsel for the petitioner, hence contends, that the mandate carried in Sub Rule (2) of Rule 6 (supra), has become infringed, inasmuch as, despite the lands in respect whereof, the auction became conducted by the Competent Authorities, and, thereafter the *patta* (supra), became drawn in favour of the highest bidders, rather was made in respect of those lands, which were under cultivation or were under plough, and, that when in respect of such lands, there is a clear interdiction against lease being granted for a period exceeding three years, whereas, despite some tracts of the leased lands, being manifestly under cultivation, yet auction in respect thereof being ordered to be made, hence for ensuring that the successful auction bidder becomes granted lease/*patta* for a period of seven years. Moreover, it is also argued that the subsequent thereto making of *patta* (supra), in favour of the successful bidders, even in respect of lands, which were under cultivation, at the relevant time, did openly transgress, the above mandate carried in Sub Rule 2 of Rule 6 (supra).

Reasons for rejecting the submission of the learned counsel for the petitioner.

5. The above made argument before this Court, was also made before the learned Collector concerned, but it became rejected, resulting in a verdict of dismissal being made by the learned Collector concerned, on 19.01.2017, upon missal No. 04/10 A, order whereof, is embodied in Annexure P-25.

6. Thereafter, the aggrieved concerned, preferred an appeal against the afore verdict of dismissal, as recorded by the learned Collector, before the learned Appellate Authority. However, the

Appellate Authority also dismissed the appeal (supra), resulting in the order of dismissal, as became initially recorded, on the petition filed under Section 10 of the Punjab Village Common Lands (Regulation) Act, 1961, by the learned Collector concerned, hence becoming affirmed.

7. The Appellate Authority, in dismissing the appeal (supra), and in its concurring with the initially made order, upon, the *misal* (supra), by the learned Court concerned, had made a thorough examination, of the revenue records, and, had resultantly made a conclusion, that the lands, as became put to auction, and, subsequently became leased to the respondents herein through a *patta*, and, as becomes comprised in Annexure P-16, rather becoming recorded in the revenue records, as Jarh, Jhund, Gairmumkin, uncultivable and Beabad. Moreover, the learned Appellate Court also recorded a finding, that there existed no evidence on record, that the auction, as made of the above land, was not done in accordance with the relevant rules. In consequence, as above stated the Appellate Authority was obviously led to dismiss the appeal (supra).

8. The above made concurrent orders by both the Courts below has resulted in pain being caused to the petitioner, and, has led him, to institute thereagainst the instant writ petition before this Court.

Further reasons for not accepting the submissions of the learned counsel for the petitioner, as addressed before this Court.

9. Though, the learned counsel appearing for the petitioner has been yet very vehement in submitting, that the revenue records appertaining to the disputed lands, are related to the stage, when some parts of the lands, as, became being put to auction, were under plough,

and or, were also under cultivation. Therefore, in respect of such lands hence as mandated by Sub Rule (2) of Rule 6 (supra), no lease could be granted to the private respondents, for a period exceeding three years, whereas, the lease in respect of the disputed lands, being made in their favour rather beyond three years, thus has resulted in the entire auction proceedings being vitiated, besides also the makings of *patta*, in favour of the private respondents, does also become tainted.

10. However, the best evidence in respect of the above argument, became comprised in the petitioner adducing before the authorities below, revenue records appertaining to the stage, when the auction proceedings became conducted, and, such records revealing, that a part of the leased lands, were then therein shown to be under plough/cultivation. In addition, if the revenue entries relating to the suit lands, even if, at the stage of holding of auction proceedings, displayed that the entire suit land, was, then not under plough, but rather become pronounced by such entries, as Jarh, Jhund, Gairmumkin, uncultivable and Beabad, thereupon, it was yet open for the petitioner, to rebut the presumption of truth, as were assignable to the said revenue entries. However, neither the petitioner took to place on record, the jamabandis appertaining to the stage, when the auction proceedings were undertaken, nor did he adduce any cogent evidence rather unfolding, that the revenue entries displaying, that the suit land becoming recorded as Jarh, Jhund, Gairmumkin, uncultivable and Beabad, hence were not truthful. Thus wants of adduction of the above evidence, the drawing of auction proceedings in respect thereof, besides the making of *pattas* in respect of such lands, rather for a period beyond three years, was

(supra) became never breached.

Conclusion

11. The completest lack on the part of the petitioner to adduce the above documentary evidence before the learned Collector concerned, did obviously beget a conclusion, as became aptly drawn by both the authorities below, that credence was assignable to the revenue entries appertaining to the suit lands, relating to the stage of drawing of auction proceedings, and, when such revenue entries, did made clear echoings, that the suit lands were therein described as Jarh, Jhund, Gairmumkin, uncultivable and Beabad. Thus, the above assigned classification to the auction lands, and or, the lease lands, did not invite thereto, the interdiction cast in Sub Rule (2) of Rule 6 (Supra).

Summarization of Principles.

1. In suits where there is a dispute regarding the nature of land, a thorough examination of the revenue records is to be made, and, cogent evidence, in the form of the relevant jamabandi is required to be adduced, before the authority concerned, to enable him to decide the nature, of the disputed land.

2. If the revenue records relating to the stage of conduct of auction proceedings display that the lands are uncultivable, thereupon, such entries at the above relevant stage are to be assigned credence unless cogent rebuttable evidence thereto becomes adduced.

Final Order

12. In consequence, this Court does not find any merit in the writ petition, and, with the above observations, the same is dismissed.

The impugned orders are affirmed and maintained.

13. No order as to costs.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

03.02.2023

kavneet singh

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