

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

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**CWP-16994-2017
Date of Decision: 03.10.2023**

NIRMAL SINGH

... Petitioner

VERSUS

STATE OF PUNJAB AND ORS.

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Sanjiv Gupta, Advocate and
Mr. Tushar Wadhwa, Advocate
for the petitioner.

Mr. Rohit Bansal, Sr. DAG, Punjab.

VINOD S. BHARDWAJ, J. (ORAL)

The prayer in the present petition is for issuance of directions to the respondents to release the land of petitioner as well as for restraining the respondents from creating third party rights in the land in question.

Learned counsel for the petitioner contends that the petitioner, after purchase of land from Gurdial Singh, vide Sale Deed No.3190 dated 22.02.1994, had gifted the same to the State Government for establishing a Hospital/Health Services Centre at the village. However, despite lapse of more than 18 years, no construction was raised on the said land. The petitioner accordingly made a request on 24.06.2012 to return the said land to the petitioner if the Government is not interested to establish any Hospital or Health Service Centre. The aforesaid application was forwarded by the Government and Director, Health and Family Welfare Department was required to respond to the same. It is further averred that the land was neither acquired nor was any

compensation paid by the State Government to the petitioner. Since the land was transferred by the petitioner to the Government for the above purpose, the petitioner is entitled to the return thereof, if land is not utilized for the same.

Reply by way of affidavit of Dr. Jaspal Kaur, Director, Health and Family Welfare Department dated 10.07.2018 has been filed, wherein it has been averred as under:-

“1. That in the present writ petition the petitioner is seeking direction to release the land of the petitioner as well as restraining the answering respondents from creating third party right in the land in question In this Connection it is submitted that the present Writ Petition is not maintainable as the land was got registered in the name of Director Health And Family Welfare, Punjab vide wasika No. 3190 dated 22- 02-1994 (The copy of the sale deed is annexured here with as Annexure R-1) by the Gurdeep Singh, Harjit Singh, Baljit Singh S/o Kehar Singh S/o Gyan Singh residence of Behlolpur, Tehsil and District Roopnagar Khewatdar Mauja Chuaharpur Tehsil Samrala District Ludhiana who were the original owner of the land in dispute. This land was given to the Director Health And Family Welfare, Punjab for construction of the hospital and for providing better health services to the residents of the village Jharh Sahib (Chuharpur) Tehsil Samrala, District Ludhiana. That the Government of Punjab was also having land in that area but the original owner three brothers have offered their land for construction of the hospital which was dully (sic) accepted by the Department and the land was got registered by three brothers in name of Director Health and Family Welfare, Punjab. There is no record in the sale deed regarding the petitioner that he has ownership regarding the above mentioned land. Never since record placed by the petitioner with the Writ Petition which shows that he was the

owner of the said land and nothing is mentioned. Writ Petition file by the present petitioner is false and frivolous (sic) which is liable to be dismissed with heavy cost.

2. *That it is well settled law that the person who himself donated or gifted the land could not sought compensation under the right to fair compensation as the same cannot be treated as compulsory acquisition under the act and the right of fair compensation act is not applicable in the present case. The land measuring 8 kanals, 0 marla was given by the three brothers with their sweet will for the construction of the hospital and registered sale deed was executed in the name of the Director Health And Family Welfare, Punjab and the present petitioner who is stranger to the land in dispute filed the present petition claiming that he had directly executed the sale deed in the name of the answering respondent No. 2 is wrong as per the revenue record. The petitioner has not placed any record to support his claim.*
3. *That the Answering respondent Department has already sent a proposal (sic) of rupees 24 Lakh to the Finance Department for approval which is under consideration. Whenever the Finance Department accord approval the construction of the hospital/dispensary will be started after getting the sanction from the Finance Department. The answering respondent will start the construction of the Hospital/Dispensary whenever the amount for construction the Hospital will be provided by the Finance Department.”*

The specific stand of the State is that the original owners namely Gurdeep Singh, Harjit Singh and Baljeet Singh sons of Kehar Singh son of Gyan Singh had executed the sale deed in favour of the Department and that the petitioner Nirmal Singh is neither related to any of them nor transferred any land. Thus, being a third party, has no right with respect to the aforesaid land.

It is also averred that no document whatsoever has been placed on record to substantiate that the petitioner was ever the owner of the said land. No replication controverting the reply filed by the respondents has been filed despite more than five years of the reply.

I have heard the learned counsel for the respective parties and have also gone through the documents appended alongwith the present petition with their able assistance.

The specific stand of the respondents that the petitioner is a third party and an outsider having no connection with the land in question has remained uncontroverted notwithstanding the said reply having been filed in the year 2018. There is no document on the strength whereof Nirmal Singh i.e. the petitioner herein can be inferred to be the owner of the said land or that he transferred the rights to the Government. He thus has no right to claim the land to be reverted to him.

The present petition is thus misconceived and the same is hereby dismissed.

Liberty is, however, granted to the petitioner to pursue his alternative remedy, if any, available to him in accordance with law to establish his claim or title over the land.

OCTOBER 03, 2023
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No