

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

(206)

**2023:PHHC: 156748
CWP-15515-2018
Date of Decision: 07.12.2023**

Kulwant Singh & others

--Petitioners

Versus

State of Punjab & others

--Respondents

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

Present:-

Mr. P.P.S. Brar, Advocate for petitioners.

Mr. Teevar Sharma, AAG, Punjab.

VINOD S. BHARDWAJ.J (Oral)

Prayer in the present petition was for directing the respondents to grant exemption to the land of the petitioners from the purview of Section 3(3)(C) of the Punjab Preservation of Sub Soil Water Act, 2009 (hereinafter to be referred to as 'the 2009 Act').

The petitioners, who are farmers and small land holders, have approached this Court being effected by water logging. As a result of the acute water logging the fields of petitioners remained flooded with water for most part of the year. They had approached the respondent authorities for being granted permission to install shallow tubewells on the right side of Sirhind Canal so that they could deal with the above said problem.

During the pendency of the present petition, a survey was conducted by the respondents and reply by way of affidavit of Gurpreet Singh, Chief Agriculture Officer, Sri Muktsar Sahib dated 6.12.2023 has been filed today in Court and a copy thereof has been handed over to the counsel for petitioners as well. It has been averred in the aforesaid affidavit

as under:-

“3. That in compliance with the orders of Hon'ble Punjab and Haryana High Court, The Department of Agriculture and Farmers Welfare Punjab directed the team of ground water cell of department to conduct the survey of water logged area of the petitioners on priority basis along with survey of other waterlogged areas of Distt Sri Muktsar Sahib. So that the necessary relief and exemption for early transplanting of paddy can be given to the affected farmers of concerned areas. As per the orders, the team of ground water cell conducted the survey of 77 villages of Distt Sri Muktsar Sahib including village of the petitioners as per the provision of "Punjab Preservation of Sub-Soil water act, 2009" and at that time there was severe attack of COVID-19 throughout the country and there was fully lockdown. After few months the team of ground water cell conducted the survey of affected areas/villages of Distt Sri Muktsar Sahib and submitted their report to the Director, Agriculture and Farmers Welfare Punjab.

It is worth mentioning here that survey of each village is lengthy and time consuming process and as such as per law and rules of government the survey reports are prepared and correspondences are made to competent Authority for seeking of approval, due to which delay is usually occurred. Apart from the above it would be relevant to mention here that the notification regarding exemption of water logged villages is to be issued by the Government after getting approval from the Hon'ble Governor of Punjab. Due to which some delay is usually occurred.

4. That on the basis of report of the team and proposal of Director Agriculture and Farmers Welfare, Punjab the Government of Punjab Vide its notification 8/19/2006-Agri-2/5059 dated 06 May, 2022 has declared land of 77 villages of District Sri Muktsar Sahib including village Karamgarh as waterlogged under Section 3(3)(C) and the area of these village is exempted from the purview of the "Punjab

Preservation of Sub-Soil water act, 2009" for a period of 2 years (ANEXURE R2). ”

It is evident from the perusal of the above affidavit that the respondents have conducted a survey of 77 villages of District Sri Muktsar Sahib including village of the petitioners as per the provisions of 2009 Act and that the said villages had been found to be waterlogged under Section 3(3)(C) of the 2009 Act. The area of the village of the petitioners had thus been exempted from the purview of the 2009 Act for a period of 2 years. An order in this regard had also been passed on 5.5.2022 and endorsed on 6.5.2022.

In view of the above position, present petition has been rendered infructuous and the same is disposed of accordingly.

(VINOD S. BHARDWAJ)
JUDGE

07.12.2023

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No