

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

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**CWP-25144-2023
Date of decision: 08.11.2023**

SHARIF AND OTHERSPetitioners

Versus

STATE OF HARYANA AND OTHERSRespondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present : Mr. Sachin Mittal, Advocate
for the petitioners.

Mr. Ankur Mittal, Addl. A.G., Haryana with
Mr. Saurabh Mago, DAG, Haryana.

SURESHWAR THAKUR, J. (ORAL)

1. The present petitioners were granted lease of fishery ponds by Gram Panchayat Kiranki Khedli.
2. The said leases were made in pursuance to the petitioners being declared as successful auction bidders, in a validly conducted auction proceeding(s). The said leases were made subject to the lessees making payments in the schedule mentioned in the grant. Since the present petitioners did not make the payments in terms of the schedule concerned. Therefore, the BDPO concerned was led to institute a petition under Section 10 A of the Punjab Village Common Lands

(Regulation) Act, 1961 (as applicable to Haryana) hereinafter for short called as the 'Act of 1961', before the learned Assistant Collector concerned, whereby he sought the cancellation or the rescinding, of the said grant, thus on the above breaches being made by the lessees concerned. The said order (Annexure P-1) has been challenged before this Court.

3. The learned counsel appearing for the petitioners, submits that, the impugned order reflecting that the relevant deposits, have not been made, before the authority concerned, is ridden with a fallacy, as the said payments were deposited before the Secretary of the Panchayat concerned. Moreover, the learned counsel for the petitioners also submits, that even if there is deficiency, if any, in the present petitioners making payments to the respondent concerned, yet they are now ready and willing to make the said deposits before the Authority concerned.

4. The above made argument relating to there being a fallacy in the impugned order, as relates to any reflection therein, that there is a shortfall in the relevant deposits, rather is not acceptable to this Court, as the same has been addressed only before this Court, whereas, the said argument was required to be addressed, before the authority below, besides required the adduction there, of cogent evidence, in display, that the relevant deposits were tendered or were made before the Competent Authority concerned. Therefore, but reiteratedly the above made argument when remained un-addressed before the authority below besides, also remained un-supported by any cogent evidence, as such, it is deemed to be made most surmisely and as sated above is

required to be rejected as such.

5. The learned State counsel has today placed on record a report relating to delivery of possession of the disputed fishery, to the subsequent successful auction bidder. The learned counsel for the petitioners argues that the said report relating to delivery of possession of the disputed fisheries to the subsequent successful auction bidder, does not contain the signatures of the present petitioners, and, as such the present petitioners rather have been in a slipshod and arbitrary manner, thus evicted from the disputed fisheries.

6. In the above regard, without interfering with the impugned order, the remedy now available to the present petitioners, is to move an appropriate motion before the competent authority seeking cancellation of the lease of the disputed fisheries, as made to the subsequent successful auction bidder, besides to institute a suit for all the relevant purposes before the learned Civil Court concerned.

7. Disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

08.11.2023

kavneet singh

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