

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

CWP-3757-2024
Reserved on: 12.03.2024
Pronounced on: 19.03.2024

KUSH SHARMAPetitioner

Versus

STATE OF HARYANA AND ORS.Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE LALIT BATRA

Argued by: Mr. Vikram Singh, Advocate
for the petitioner.

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

SURESHWAR THAKUR, J.

1. The instant writ petition is directed against the concurrently made orders as became respectively enclosed in Annexure P-8 and Annexure P-11, whereby on the application preferred by the Gram Panchayat respectively under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 and under Section 10A of the Punjab Village Common Lands (Regulation) Rules, 1964 (hereinafter for short called as "the Rules of 1964"), thus the relief claimed therein for rescinding of lease dated 11.09.2017, became accepted.

Facts of the case.

2. The petitioner was assigned leases in respect of the disputed lands. The period of lease commenced from 11.09.2017, and

was to last upto April 2023. Though on expiry of the tenure of the lease in the month of April, 2023, therebys the present petitioner was to, unless the petition lands became re-leased to him, thus deliver possession of the disputed lands to the Gram Panchayat or the Gram Panchayat concerned was required to be ensuring the eviction of the petitioner from the disputed lands, through its instituting an eviction petition against the present petitioner.

3. However, it appears that yet the present petitioner continued to occupy the lease property in terms of panchayat resolution dated 16.11.2021 (Annexure P-2), whereby the tenure of the lease as made vis-a-vis the disputed lands became extended for a further period of two years lasting upto 2025 with increase of 30 per cent of the lease money amount. The said resolution appears to also become affirmed by Annexures P-3 and P-4, annexures whereof embody therein, the approval as made thereto by the competent approving authority.

4. It is on account of the making of the above Annexures, that the counsel for the petitioner has vehemently argued before this Court, that the concurrently made orders, as carried in the Annexures (supra), which become rendered prior to the expiry of the lease period in the year 2025, rather suffer from a grave fallacy.

Inference of this Court.

5. However, for the reasons to be assigned hereafter irrespective of the making of a panchayat resolution (Annexure P-2) and approval thereto as became granted through Annexures P-3 and P-4, yet when the said Annexures merely extend the tenure of the lease as made to the present petitioner yet they do not erase the pervasive

present petitioner. In other words, if the initially made lease of the disputed lands is ridden with a vice of gross blatant breach being caused to the relevant statutory rules, thereby the extension thereto as became made respectively through Annexures P-2, P-3 and P-4, thus would be completely irrelevant.

6. For determining whether the initially made lease of the disputed lands to the present petitioner did cause breach to the relevant statutory rules, it becomes imperative to allude to the relevant fact, that about 28 acres of *Gau charand* land became leased to the present petitioner. However, when the proviso (a) to Rule 6 (2) (b) as carried in 'the Rules of 1964', provisions whereof stand extracted hereinafter mandate that the maximum permissible area of the *shamlat land* whereons a lease can be created rather is limited only upto 10 acres at any time.

“[6. *Leases of land.*

(1) xxxx xxxx xxxx

(2) xxxx xxxx xxxx

(a) xxxx

(b) xxxx

xxxxxx

Provided further that -

(a) the maximum area of land in shamilat deh to be leased to a person for cultivation shall not exceed ten acres at any time;

(b) the panchayat shall not lease land in shamilat deh for cultivation to a person -

(i) having a holding of ten acres or more; or

(ii) already holding lease under any other Panchayat;

(c) out of the land proposed to be leased for

cultivation, thirty per cent, ten per cent, ten per cent, respectively, shall be reserved for giving on lease by auction, to members of the Scheduled Castes, Backward Classes and dependents of defence personnel killed in any war after the independence of India. ”

7. Consequently, when about 28 acres of land became leased by the Gram Panchayat, Matnauli to the present petitioner, thereby, the mandate of the above provisions became blatantly transgressed. Furthermore, since the proviso (c) of Rule 6(2)(b) (supra) contemplates that out of the land proposed to be leased for cultivation, 30%, 10% and 10% shall be reserved for being leased through auction respectively to the members of the Scheduled Castes, Backward Classes and dependents of defence personnel killed in any war after the independence of India. However, when neither the reservation(s) of lands in the percentum (supra) did not become made to the respectively reserved categories nor leases of lands after public auction being conducted, thus became made to the said reserved categories. Resultantly, thereby a blatant breach is done to the mandate of Rules (supra).

8. In consequence, with the blatant breach being caused to the mandate enclosed in the statutory Rules (supra), thereby, when the initially made lease to the present petitioner was thus tainted, thus neither any extensions as granted through the panchayat resolution (Annexure P-2), nor any approval as became meted to the said panchayat resolution through Annexures P-3 and P-4, thus hold any legal consequentiality.

9. In suma, the dependence made by the learned counsel for the petitioner that the impugned orders (Annexures P-8 and P-11)

suffers from an illegality, inasmuch as, theirs being recorded despite extension of the tenure of the lease being granted through Annexures P-2, P-3 and P-4, thus does hold any water and is liable to be rejected.

10. Conspicuously also when it is evident on a reading of the impugned orders that the disputed lands become leased to the successful auction bidder, who is not the present petitioner, besides when no challenge is made to the lease of the disputed lands to the successful auction bidder concerned, thereby also the instant writ petition becomes rendered infructuous or is a mis-constituted remedy, thus given the petitioner not challenging the assignment of the disputed lands on lease to the successful auction bidder.

Final Order of this Court.

11. In aftermath, this Court finds no merit in the writ petition, and, with the above observations, the same is dismissed. The impugned Annexures are maintained and affirmed.

12. No order as to costs.

13. Since the main cases itself has been decided, thus, all the pending application(s), if any, also stand(s) disposed of.

(SURESHWAR THAKUR)
JUDGE

(LALIT BATRA)
JUDGE

19.03.2024

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