

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-14346 of 2019 (O&M)
Reserved on 13.12.2023.
Date of Decision:12.01.2024

Bachan Singh and others
... Petitioners
Versus
The State of Punjab and others
... Respondents

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

Present: Mr. Kulwant Singh, Advocate, for the petitioners.
Mr. Gurpreet Singh, Addl. A.G. Punjab
Mr. Hardeep Singh, Advocate, for respondent No.8.
Mr. Nakul Sharma, Advocate, for respondent No.9.
Mr. Jagtar Singh Sidhu, Advocate, for respondent No.10.

SUDEEPTI SHARMA, J.

1. The challenge in the present writ petition is to order dated 16.03.2018 (Annexure P-11) passed by the learned Financial Commissioner, Punjab Government, Rural Development and Panchayat Department, Chandigarh. Further the petitioners are asking for directions to the official respondents to deliver the possession of the land in question measuring 12 Bighas 10 Biswas since it was allotted to them for construction of their houses.
2. The brief facts of the case are that the Gram Panchayat Kalauli filed the Civil Writ Petition No.7666 of 2007 in this Hon'ble Court and the above writ petition was disposed of by passing the following order:-

"According to learned Deputy Advocate General, Punjab, instructions have been issued to the revenue officers and respondent

No. 3 to 6 to take appropriate action in this case. For the foregoing reasons this petition is disposed of with the direction that the above mentioned respondents will implement the directions given to them. Proceedings be completed within two months from today."

3. The Gram Panchayat Kalauli Jattan filed a Review Petition No.342 of 2018 in the above Civil Writ Petition No.7666 of 2007 and on 26.11.2009, the following order was passed by this Court :-

"This is an application filed under Order 47 Rule 1 read with Sections 114 and 151 of the Code of Civil Procedure, 1908 for review of the order dated 27.08.2007 (A.1) passed by a Division Bench of this Court while disposing of CWP No. 7666 of 2007. The principal grievance made by the applicant is that the order passed by this Court on 27.09.2007 has been passed at its back and therefore it deserves to be recalled. Notice of the application was issued. The non-applicant-petitioners have contested the application. The applicant has been permitted vide separate order of today passed in C.M. No. 20715 of 2008 to join as party respondent No. 7 in the writ petition and the writ petition has been re-heard in view of the fact that the directions issued on 27.09.2007 have been implemented. It is appropriate to notice that the non-applicant-petitioner had approached this Court with a prayer for issuance of direction to the respondents to provide police help under the supervision of Sub Divisional Magistrate respondent No. 4 and Block Development and Panchayat Officer-respondent No. 5 for removal of heaps of cow dung, mounds of wheat chauff and dung cakes heaps over 12 bighas 10 biswas falling in khasra No. 80. On 27.09.2007, the learned Deputy Advocate General, Punjab stated before the Division Bench that appropriate instructions have been issued to the revenue officers and the Deputy Commissioner-respondent No. 3, Sub Divisional Magistrate-respondent No. 5 and Block Development and Panchayat Officer- respondent No. 5 and District Welfare Officer, Patiala-

respondent No. 6 to take appropriate action in the mater. That aforesaid order reads as under:-

According to learned Deputy Advocate General, Punjab, instructions have been issued to the revenue officers and respondent No. 3 to 6 to take appropriate action in this case. For the foregoing reasons this petition is disposed of with the direction that the above mentioned respondents will implement the directions given to them. Proceedings be completed within two months from today. Mr. Punia, learned counsel for the applicant- respondent No. 7 has argued that khasra No. 80 is a big khasra measuring 112 Bigha 20 Biswas of land and the non-applicant-petitioner has no concern whatsoever because the aforesaid khasra falls within the territorial boundaries of the applicant-respondents No. 7 namely Gram Panchayat Kalauli Jattan, which is a newly established Gram Panchayat and is functioning since 1997. He has also submitted that in the absence of any prayer by the applicant-respondent No. 7 no petition could have been filed before this Court for removal of heaps of cow dung, mounds of wheat chauff and dung cakes heaps by the Gram Panchayat Kalauli which is entirely a different entity. Mr. V.K. Sandhir, learned counsel for the non-applicant-petitioner and the leaned State counsel has, however, argued that the process of enforcing the directions issued on 27.09.2007 has already started and a four member committee was constituted by the Sub Divisional Magistrate, Rajpura, respondent No. 4. The aforesaid Committee has submitted its report (A4) which has not been accepted and approved as yet by the Director, Rural Development and Panchayats, Punjab, Chandigarh under Section 3 of the Panchayati Raj Act, 1994. After hearing the learned counsel for the parties and perusing the paper book with their able assistance we are of the view that in the report submitted by the four members Committee is has been concluded that Gram Panchayat Kalauli - non applicant petitioner is a separate entity and Gram Panchayat Kalaulti Jattan (new) Kalauli Jattan is a separate Panchayat. The

area compromised in khasra No. 80 falls within the abadi of new Gram Panchayat Kalauli Jattan. As per the revenue record the aforesaid khasra No. 80 measuring 112 bighas 10 biswas has been shown under the ownership of Nagar Panchayat and in cultivation column the applicant has been recorded as Makbuja Wasian Deh. Therefore, the report itself reflects that the non-applicant petitioner has no claim in respect of the land in khasra No. 80 or to evict any of the occupants from 12 bighas 20 biswas of the lan comprised in khasra No. 80. The aforesaid report is yet to receive approval from the Director, Rural Development and Panchayats respondent No. 2. Therefore, we feel that ends of justice would be met if the competent authority while according approval to the report, shall grant hearing to the applicant- respondent No. 7 i.e. newly constituted Gram panchayat Kalauli Jattan and shall pass no order at their back. The review application as well as the main petition for impleading applicant-respondent No. 7 as party-respondent is disposed of in the above terms. A copy of this order shall be handed over to Mr. Piyush Kant Jain, learned Addl. Advocate General, Punjab for onward communication of the same to the Secretary, Rural Development and Pachayats Department, Mini Secretariat, Sector-9, Chandigarh and Director, Rural Development and Panchayats Punjab, Sector-17, Chandigarh."

4. In compliance of the above orders, the Director, Rural Development and Panchayats after giving the opportunity of being heard to Gram Panchayat Kalauli and Gram Panchayat Kalauli Jattan, vide order dated 26.05.2010 concluded that the Deputy Director (Land Development), Department of Rural Development and Panchayats, Punjab, issued letter on 28.06.2007 without verifying the facts that 12 bighas and 10 biswas land out of *Khasra* No.80 measuring 112 bighas 10 biswas was reserved for the Harjijans.

5. He further concluded that a four members committee was constituted

consisting of Block Development and Panchayat Officer, Rajpura, Naib Tehsildar, Rajpura, Kanungo and Sarpanch, Banur, who after verifying the entire revenue record, submitted that as per the record, *Khasra* No.80 is in the ownership of the Gram Panchayat and in cultivation column, it is recorded “*Makbuja Wasian Deh*”, which has total area of 112 bighas 10 biswas. This report was prepared by the committee after going through the relevant revenue record including the scheme of consolidation and “*Khatauni Istemal*” of village Kalauli. As per the scheme, 12 bigha 10 biswa out of *khasra* No.80 measuring 112 bighas 10 biswas was nowhere reserved for Ramdasia community, whereas as per the scheme *Istemal* in the record, it was reserved for different purposes as was specified in the scheme. Further that in Gram Panchayat Kalauli a new Gram Panchayat Kalauli Jattan was constituted which has a separate *Abadi* and whole area of this *Khasra* No.80 (112 Bighas 10 Biswas) *Makbuja Wasian Deh* comes with new Gram Panchayat Kalauli Jattan and the old Gram Panchayat Kalauli has its own *Khasra* No.265 and therefore the report of the committee was accepted by the Director, Rural Development and Panchayats.

6. Against the above order dated 26.05.2010, the petitioners filed CWP No.15446 of 2010 and this Court ordered the partition of the properties of Gram Panchayat Kalauli and Kalauli Jattan by passing the following order:-

“[3] The renewed stand as reproduced above is consistent with their previous stand, namely, that the abadi area of Gram Panchayat, Kalauli is located in khasra No.265 whereas the new abadi area of Gram Panchayat Kalauli Jattan is in khasra No.80.

[4] The above-stated plea taken by the authorities is further fortified by the site-plan (R-1), wherein the total area of both the khasra

Nos.265 and 80 as well as their geographical location are distinctly described. We have no reason to doubt the averments made in the affidavit or the site-plan (R-1).

[5] There is no gain saying that unending dispute between the two Gram Panchayats in respect of their assets or abadi area comprising khasra No.80 must come to an end and for that the State Government is obligated to step in and resolve the controversy in a time bound manner. Ordinarily, such like disputes are not expected to be resolved on judicial plate-forms. We, thus, dispose of this writ petition with a direction to the Principal Secretary to Rural Development and Panchayat Department, Punjab to clearly demarcate the abadi area of both the Gram Panchayats in conformity with the affidavit dated 23.07.2015 filed by the Director, Rural Development and Panchayat and thereafter apportion the movable and immovable assets between the two Gram Panchayats in accordance with law. The State Government shall also be obligated to protect the interest of all communities including the down-troddens while undertaking the aforestated exercise. Such a decision shall be taken within a period of four months from the date of receiving a certified copy of this order.”

7. In compliance of the above orders, the Divisional Deputy Director, Panchayat vide his order dated 30.05.2016 passed the following order between the Gram Panchayat Kalauli and Gram Panchayat Kalauli Jattan:-

"As per the Voter List for the year 1998, the voters of Gram Panchayat Kalauli are 545, whereas, voters of Gram Panchayat Kalauli Jattan is 395. According to this, the share of Gram Panchayat Kalauli is 58% and Gram Panchayat Kalauli Jattan is 42%. Hence, land measuring 288 Bighas 16 Biswas is to be partitioned. As per this ratio, Gram Panchayat, Kalauli Jattan is entitled to the land measuring 121 Bighas 8 Biswas comprised in Khewat Khatauni No.

230/366, 373, 375, 377, 381, Khasra No. 175 (3-3), 176 (3-0), 177 (2-0), 185 (8-0), 186 (3-5), 187 (1-10), 190 (6-5), 192 (6-5), 193 (5-15), 194 (6-5), 195 (4-3), 196 (6-5), 206 (7-17), 207 (3-6), 208 (5-8), 209 (7-0), 210 (3-1), 211 (4-7), 212 (2-12), 213 (4-11), 270 (16-13), 469 (5-0), Kitte 23, whereas the Gram Panchayat Kalauli is entitled to land measuring 167 Bighas 108 Biswas comprised in Khewat /Khatauni No. 231/386, 230/366, 374, 375, 376, 379, 380, 382, 384, 385, Khasra No. 178 (57-14), 179 (2-14), 182 (4-3), 183 (2-0), 184 (9-13), 188 (7-4), 231 (6-5), 232 (6-5), 233 (4-9), 238 (2-14), 264 (58-2), 921 (6-5), Kittes 12. Apart from it, the land comprised in Khewat /Khatauni No. 230/375, Khasra No. 272 (1-18) is common land for both the Panchayats as Gair Mumkin Maria and both the Gram Panchayats shall use the above area jointly. On the basis of the above, the partition is ordered between the Gram Panchayat Kalauli and Gram Panchayat Kalauli Jattan."

8. The petitioners filed the SLP (Civil) No.3004 of 2016 in the Hon'ble Supreme Court of India against the order dated 21.08.2015 passed by this Court in CWP No.15446 of 2010 and in the above SLP the Hon'ble Apex Court on 19.02.2016 passed the following order:-

"Upon hearing counsel the Court made the following

ORDER

Permission to file Special Leave Petition is granted.

Delay in filing the application for substitution is condoned and the application for substitution is allowed.

Delay condoned.

We find no reason to entertain this Special Leave Petition, which is, accordingly, dismissed.

However, liberty is granted to the petitioners to raise all available contentions before the Principal Secretary, Rural Development and Panchayats, Punjab, who is also requested to take a

decision expeditiously and preferably within six months from today. Pending applications, if any, are disposed of."

9. In compliance of the above order of the Hon'ble Supreme Court, the Financial Commissioner, Punjab Government, Rural Development and Panchayat Department, on 16.03.2018 passed the following order:-

"Keeping in view above facts and the perusal of the documents placed on the file, I have come to the conclusion that the Director, Rural Development and Panchayat, after hearing both the Panchayats in detail has passed the order dated 26.05.2010. This order was challenged in Civil Writ Petition 15446 of 2010. But the above order was not set-aside by the Hon'ble Punjab and Haryana High Court. In this regard, the SLP filed by the petitioner has already been dismissed by the Hon'ble Supreme Court of India vide order dated 19.02.2016. In this regard, the spot was also inspected by the Divisional Deputy Director, Patiala and as per his report, it is clearly mentioned that the land measuring 12 Bighas 10 Biswas comprised in Khasra No. 80 is not reserved for any caste and this land is the part and parcel of the abadi area. As such, the petitioner has failed to prove their claim over the above land. Therefore, there is no need to set aside order dated 26.05.2010 of the Director, Rural Development. Hence, the present case of the petitioners is rejected."

10. The order dated 16.03.2018 is impugned in the present writ petition.

11. On 05.12.2022, the following order was passed by this Court:-

"CM-11021-CWP-2020

1. *It is averred in the application that the residents of the village Panchayat have authorized the present applicant/respondent No.10 to become a party in the instant petition.*

2. *Thus, the application is allowed, and, the applicant is ordered*

to be impleaded as party-respondent No.10. The amended memo. of parties is filed, and, the same is taken on record. The Registry of this Court is directed to tag the same at appropriate place.

3. *No notice is required to be served to the newly added respondent, as he stands represented through their counsel Mr. Jagtar Singh, Advocate.*

4. *The respondent is permitted to file reply.*

Main case

5. *After hearing the matter for some time, the learned State counsel is directed to place on record instructions whether there is a reserved pool for allotment of land to the petitioners in the Mohal concerned, and, which can be considered to be allotted to them, subject to the economic criteria and also subject to theirs being landless persons.*

6. *List on 6.2.2023.”*

12. In compliance of the same, short affidavit dated 13.12.2023 was filed by Mohinder Singh, Block Development and Panchayat Officer, Rajpura. The relevant portion of the same is reproduced as under:-

“3. That it is submitted here that as per above direction of the Hon'ble Court it has been specifically state here that as per the revenue record no area has been reserved for allotment of land to the petitioners in the concerned Mohal i.e. Khasra no. 80 of the village Kalauli Jattan which can be considered to be allotted to them the said fact is to be clear from the consolidation scheme which is annexed herewith as Annexure R-1/T for the bare perusal of this Hon'ble Court.

4. *That as per the consolidation scheme Khasra No. 80 of the village Kalauli Jattan is within Abadi Deh of village. The petitioners has no concern with the land in dispute as they are resident of village Kalauli which is a separate village in which they are residing.*

5. *That moreover the above said facts have been proved in the*

order of the Director dated 26.05.2010 (Annexure P-5) wherein the Report from the concerned SDM was sought and the SDM after making committee and verifying the entire revenue record, submitted that as per revenue record Khasra No. 80 is the ownership of Gram Panchayat and in cultivation column it is recorded Makbuja Wasian Deh, which has total area of 112 Bighas 10 Biswas. This report has been prepared after going through the relevant revenue record which also includes the scheme 12 Bighas 10 Biswas out of Khasra No. 80 measuring 112 Bighas-10 Biswas was nowhere reserved for Ramdasia community, whereas, as per scheme Istemal in the record, it was reserved for different purposes as has been specified in the scheme. It was further mentioned that in Gram Panchayat Kalauli a new Gran Panchayat Kalauli Jattan was constituted which has a separate abadi and whole area of this Khasra no. 80 (112 Bigha-10 Biswa) Makbuja Wasian Deh comes with new Gram Panchayat Kalauli Jattan and the old Gram Panchayat Kalauli has its own Khasra No. 265. In view of the aforesaid facts the report of the Committee Annexure A-4 filed in the review application No. 342 of 2008 is hereby accepted and approved.

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8. That it is further submitted here that the Petitioners are not entitled for land measuring 12 Bigha-10 Biswas in Khasra no. 80 of village Kalauli Jattan. It is pertinent to mention here that land measuring 12 Bigha 10 Biswas land out of Khasra No.80 was nowhere reserved for Ramdasia community, whereas in the consolidation scheme, same is Abadi Deh of village Kalauli Jattan.”

13. A perusal of the affidavit filed by the respondent-State shows that the petitioners are not entitled for land measuring 12 bighas 10 biswas out of Khasra No.80 of village Kalauli Jattan and it was nowhere reserved for Ramdasia community, whereas in the consolidation scheme, the same is Abadi Deh of village

Kalauli Jattan.

14. In view of the above, we find no merit in the present writ petition and the same is dismissed.

15. Since the main petition is decided, all the pending applications are disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

January 12, 2024
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No