

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

2024:PHHC:139331-DB



(110)

CWP-11392-2024(O&M)
Date of Decision: 23.10.2024

Charand Tarf Committee Regd. Chaunda

--Petitioner

Versus

State of Punjab & others

--Respondents

CORAM:- HON'BLE MR. JUSTICE G.S. SANDHAWALIA.
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA.

Present:- Mr. Kulbhushan Raheja, Advocate for
the petitioner.

Mr. Shekhar Verma, Addl. A.G., Punjab.

Mr. Dinesh Kumar, Advocate for
Mr. M.K. Singla, Advocate for respondent no.4.

G.S. SANDHAWALIA.J (Oral)

CM-17420-CWP-2024

The application for placing on record the sale deeds and order dated 23.09.2024 as Annexures P-19 and P-20, is allowed, subject to just exceptions.

CM stands disposed of.

Main Case

1. Challenge in the present petition is to the order dated 24.04.2024 (Annexure P-14), passed by respondent no.2, whereby respondent no.3 was appointed as receiver for the land owned and possessed by the petitioner. Vide the impugned order the Deputy Commissioner took action on an earlier order passed by a Division Bench of this Court in CWP-10610-2023 (Annexure P-12), filed by Manohar Lal, Sarpanch and

Saudagar Singh, Panch of village Chaunda, Tehsil Amargarh, District

Malerkotla, whereby official respondent concerned was directed to pass a speaking order upon legal notice dated 17.08.2022 (Annexure P-13), within three weeks from the date of passing of the order. The grouse was that immediate steps be taken to get the land in question free from the clutches of the private persons, who had no right to control the same, as on an earlier occasion also action had also been taken by the S.D.M concerned. It was mentioned in the legal notice that there was a Committee, which is the petitioner herein was occupying the land and taking benefit from the same. The allegation was that such persons had no right over the land.

2. The Deputy Commissioner, accordingly, noticed that the land in question was 113 kanals 4 marlas is owned by Pasture for grazing animals belonging to Hindu community and possessed by owners/cultivators. As per the report submitted the petitioner-Committee was not acting as per the resolution and fresh election had to be held. It was also noticed that there was a direction of stay passed by the Civil Court and accordingly, receiver was appointed on account of the Lok Sabha Elections-24. In such circumstances, the observations were made in the impugned order that the receiver has been appointed till the Model Code of Conduct, as per law. The representation was, thus, disposed of while complying with the directions passed by this Court. On 11.09.2024, we had noticed the fact that civil proceedings were also pending between the parties and issued directions to the Civil Court to decide the application filed under Order 7 Rule 11 CPC by Manohar Lal against the petitioner-Committee.

3. The said application has now been decided on 23.09.2024 (Annexure P-20) in Civil Suit No.881 dated 13.09.2023 titled as ***Charand Tarf Committee & another Vs. Manohar Lal and others*** and the

objections taken were that the land in question is part of '*Shamlat Deh*' and belongs to Gram Panchayat. The application was dismissed by holding that written statement had not been filed by the defendants and the averments of the plaint when entirely read were not found against the provisions of Order 7 Rule 11 CPC. It was also noticed that the plea of defendants qua the cause of action, barred by law cannot be decided without sufficient material and evidence on record and the same could only be decided after framing of necessary issues and leading evidence by both the parties. It was also noticed that the suit was based on the sale deed dated 30.09.1935 and thus the land was not public land or *Shamlat* land. It is also pertinent to notice that on earlier occasion suit no.200 was filed on 28.05.2010 for permanent injunction against the State of Punjab and other private persons in which status quo order was passed on 28.05.2010 (Annexure P-10) had been filed by the petitioner-Committee, which was for grant of permanent prohibitory injunction against the State and various private persons. The said suit was eventually withdrawn on 20.02.2014 (Annexure P-11) on account of the fact that defendants were not interfering in the work of committee and in the possession of land. In the written statement now filed by the Deputy Commissioner, it has also come on record that the dispute is between two private parties/groups of village and the land was purchased in the year 1935 for the benefit of Gaushala. It is, thus, apparent that there is a private dispute inter se the parties and therefore, the decision of the Civil Court would be binding upon the parties.

4. In our considered opinion, once the parties are litigating before the Civil Court, the State would have no jurisdiction to appoint the receiver until there is any threat or apprehension of breach specially in view of the

fact that on an earlier occasion the civil suit proceedings were withdrawn on the undertaking that the defendants would not interfere in the working of the Committee.

5. Resultantly, we are of the considered opinion that once the injunction has been granted in favour of the petitioner-Committee by the court of competent jurisdiction, it would not be appropriate for the State to interfere in the working of the petitioner-Committee unless there is any statutory right or violation of law by the petitioner.

6. In view of the above circumstances, the order dated 24.04.2024 passed by the respondent no.2 will not be enforced and the present writ petition is, accordingly, disposed of in the above terms.

(G.S. SANDHAWALIA)
JUDGE

23.10.2024
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(MEENAKSHI I. MEHTA)
JUDGE

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