

2024:PHHC:130360



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

221

CWP-13104-2020 (O&M)
Date of decision: 30.09.2024

MAHINDER KAUR GREWAL

.....Petitioner

VERSUS

STATE OF PUNJAB THROUGH ADDL. CHIEF SECRETARY AND
OTHERS

.....Respondents

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

Present: - Ms. Munisha Gandhi, Sr. Advocate with
Ms. Salina Chalana, Advocate,
Ms. Samiya Singh, Advocate and
Ms. Sumanpreet Kaur, Advocate for the petitioner.

Mr. Aditya Sharda, DAG, Punjab.

Mr. Ashok Kumar Bazaz, Advocate
for respondent No.2.

VINOD S. BHARDWAJ, J. (Oral)

Prayer in the present writ petition is for directing the respondents No.2 and 4 to refrain from illegally harassing and threatening the petitioner of dispossession from her peaceful legal ownership and possession over the agricultural land situated at village Jamalpur, Kulewal Awana, Ludhiana.

2. Learned Senior Counsel for the petitioner contends that the petitioner is the lawful owner and in possession of agricultural land situated in village Jamalpur, Kulewal Awana, Ludhiana measuring 125 kanal 17 marlas vide registered sale deed dated 05.11.1971. A colonizer began to develop a project by the name of New Guru Nanak Colony close to the land of the



petitioner and even started to carve out a road through the land adjoining land of the petitioner. A protest was raised against the said actions of the respondent-developer whereupon a demarcation was conducted by the Revenue Department, in the presence of land owners and other witnesses. Despite the above said demarcation by the Revenue Department in the presence of all stakeholders, the Colonizer refused to pay any heed. Hence, a police complaint was filed against the colonizer but to no avail. The petitioner, in order to safeguard her land from any encroachment by the colonizer started construction of a boundary wall along her land but was being harassed by the unscrupulous elements. No action was taken by the Police despite numerous complaints submitted by the petitioner including the complaint filed by the petitioner on 21.01.2020 against the colonizer.

3. To the shock and dismay of the petitioner, instead of taking action against the violators on the complaint filed by the petitioner, the respondent No.2- Zonal Commissioner, Municipal Corporation, Ludhiana started harassing the petitioner by threatening her to stop construction of the boundary wall and also intimidated the workers on the site by threatening to arrest them for raising the said construction. Because of the aforesaid harassment being faced by her, the petitioner approached this Court.

4. She has placed reliance on an order passed by the Financial Commissioner, Revenue Punjab in ROR No. 186 of 1977-78 titled "*Mahinder Kaur Grewal versus Gram Panchayat Village Jamalpur, Kulewa Awana, Tehsil and District Ludhiana*" that had ruled in favour of the petitioner and it was held that all allotments of shamlat land, made as evacuee lands prior to 09.07.1985, would be deemed to have been regularized. The view point and



arguments of the Gram Panchayat was held to be unsustainable. Hence, ROR No. 186 of 1977-78 filed by the petitioner was allowed while the miscellaneous application No. 14 of 1978-79 filed by the Gram Panchayat was dismissed. The said order dated 17.08.1999 was however without prejudice to the conclusion of the investigation by the Vigilance Department.

5. It is contended by her that there is no vigilance report indicting the petitioner about any foul play and as such, the land in question was undisputedly an evacuee property that had been validly allotted to the predecessors in interest of the petitioner and was deemed to have been duly purchased by the petitioner through a valid sale deed in the year 1971, for lawful consideration and the Municipal Corporation, Ludhiana has no right to interfere in her rights.

6. Counsel for the respondent-Municipal Corporation, however, contends that civil proceedings with respect to the property are pending and that the construction over the land in question was being raised in an unauthorized manner and without taking due permissions from the competent authority.

7. In response to the same, Counsel for the petitioner contends that she had submitted an application to the respondents for grant of sanction/approval for raising construction of the boundary wall and for the other construction as was intended however, the said application was not received by the respondents on the ground of disputing the ownership of the petitioner, which they are not entitled to dispute in view of the order passed by the Financial Commissioner, Punjab on 17.08.1999. She further contends that the respondent-Municipal Corporation cannot now seek to reopen the dispute as



CWP-13104-2020 (O&M)

-4-

regards ownership of the petitioner, on account of having stepped into the shoes of the Gram Panchayat Jamalpur, Kulewal Awana, Ludhiana and to re-agitate that the property in question was never an evacuee property and could not have been allotted in favour of the predecessor interest of the petitioner, since a decision in this regard has already been taken by the Financial Commissioner (Revenue), Punjab and no challenge to the said order has been made by the respondent-Municipal Corporation in any competent forum.

8. Since the aforesaid factual position is not in dispute, I am of the opinion that the respondents cannot interfere in the possession of the petitioner on the strength of raising a dispute to her ownership especially in view of the order dated 17.08.1999 passed by the Financial Commissioner, Punjab and there being no report by the Vigilance Department to the contrary and/or in the absence of any order passed by the competent Court against the said order of the Financial Commissioner (Revenue), Punjab. At the same time, the petitioner is also directed to initiate construction/carry out development on site or carry out change of use of the land only after obtaining necessary permissions/sanctions from the competent authority in accordance with law. She would also be at liberty to file a separate petition against any rejection/refusal to grant sanction to the application submitted by the petitioner for grant of necessary approvals.

9. The present writ petition is accordingly disposed of.

(VINOD S. BHARDWAJ)

SEPTEMBER 30, 2024

JUDGE

Vishal Sharma

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