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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-13327-2015
Date of decision: 22.04.2024

Gram Panchayat Wazidpur, PatialaPetitioner

versus

State of Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. A.S. Syan, Advocate
for the petitioner.

Mr. Rajeev K. Takkar, DAG, Punjab.

Mr. Kanwaljeet Singh, Senior Advocate with
Mr. K.S. Brar, Advocate
for respondent No.3.

RAJESH BHARDWAJ, J. (Oral)

Prayer in the present petition is for quashing of the impugned order dated 09.03.2015 (Annexure P-8) passed by respondent No.1 being illegal, arbitrary, malafide and against the provisions of Punjab Panchayati Raj Act and Punjab Village Common Land Act and against the principles of natural justice. Further prayer has been made for directing the respondents to partition the land as per provisions of Punjab Panchayati Raj Act as was directed by this Court in LPA No.1104 of 2011 decided on 23.08.2012.

2. The precise dispute involved in the present case is regarding partition of the land between two Gram Panchayats i.e. Petitioner and respondent No.3. Respondent No.3-Gram Panchayat was carved out from

the petitioner-Gram Panchayat in the year 1993. This is the second round of litigation between both the Gram Panchayats as earlier they approached before this Court wherein this Court disposed of LPA No.1104 of 2011 titled as ***Gram Panchayat Wazidpur, Tehsil and District Patiala Vs. State of Punjab and others*** vide order dated 23.08.2012 with a specific directions given therein.

3. It has been submitted by counsel for the petitioner that on bifurcation of the petitioner-Gram Panchayat Wazidpur into another Gram Panchayat i.e. respondent No.3-Gram Panchayat Saini Majra, respondent No.3 started claiming their share out of the land of Village Wazidpur and thus, a resolution was passed on 05.06.2006. The BDPO had written letter to DDPO for partition of land on 31.09.2005. Thereafter, the Gram Panchayat Saini Majra, respondent No.3 filed CWP No.834 of 2006 before this Court which was disposed of with direction to decide the matter. It is submitted that respondent No.2 without considering the factual position passed the order dated 05.03.2006. Thereafter, Gram Panchayat Wazidpur filed CWP No.6186 of 2006 however, respondent No.1 passed the order dated 06.09.2006 without considering the reply filed by the Gram Panchayat Wazidpur in the writ petition. He submits that this Hon'ble Court disposed of above-mentioned CWP No.6186 of 2006 with liberty to challenge the order dated 06.09.2006. Hereinafter, the Gram Panchayat Wazidpur filed CWP-2096 of 2008 against the order dated 06.09.2006 which was disposed of vide order dated 16.03.2009 with direction to respondent No.1 to pass an order afresh. He submits that respondent No.1 passed the order dated 21.07.2009 in violation of the provisions of Punjab Panchayati Raj Act (for short 'the Act'). Hence, petitioner-Gram Panchayat filed CWP No.17487 of 2009 impugning the

order dated 21.07.2009 which was dismissed vide order dated 27.09.2010. Hereinafter, LPA No.1104 of 2011 was filed against the order dated 27.09.2010 and the order dated 21.07.2009 passed by respondent No.1 was set aside and the matter was remanded back to respondent No.1 to decide the matter in accordance with Section 3(i), (ii), (iii) of the Act. It is submitted that the Divisional Deputy Director submitted his report dated 11.07.2014 which was accepted by both the Panchayats. However, respondent No.1 again passed the order dated 09.03.2015 which was similar to the order dated 21.07.2009 which was set aside by this Court in LPA No.1104 of 2011 being against the provisions of the Act. He submits that respondent No.1 had not considered the report of Additional Deputy Director dated 11.07.2014 and even the land has not been demarcated before the partition. He further submits that petitioner is aggrieved by the impugned orders passed. He further submits that the Gram Panchayat while appearing before respondent No.1 after the remand had submitted that since 14 bighas 19 biswas of land was given to Dera Braham Dass so that the land was given to Gram Panchayat Saini Majra measuring 13 bighas 10 biswas, hence proportionately 3 bighas 10 biswas land be reduced from both Khasra Nos.284/2 and 284/5. He has submitted that Khasra No.284/2 is a plain area and Khasra No.284/5 is a pond. Total land of Khasra No.284/5 which has been given to both the Panchayats was 19 bighas 19 biswas, out of which 17 bighas 1 biswa was given to the petitioner-Gram Panchayat and 02 bighas 18 biswas was given to Gram Panchayat Saini Majra. He submits that in the entire village, the plain area was in only Khasra No.284/2 measuring 05 bighas 07 biswas. It is further submitted that the entire land has been given to Gram Panchayat Saini Majra and no plain land is left with Gram Panchayat Wazidpur which

could be used for any other purpose. He thus, submits that the impugned order has been passed in violation of the direction given by this Court in LPA No.1104 of 2011 vide order dated 09.03.2015.

4. Per contra, learned Senior Counsel for respondent No.3 has vehemently opposed the submissions made by counsel for the petitioner. He has submitted that as per Section 3 of the Act, the assets and liabilities are to be distributed on the basis of population. It is submitted that on bifurcation of the petitioner-Gram Panchayat into two Panchayats, the population ratio between both the Gram Panchayat is 74.73%:25.27%. The total land measuring 74 bighas 14 biswas of the shamlat is the only dispute between two Gram Panchayats. Out of this land 21 bighas 02 biswas is being used for passages and 14 bighas 19 biswas of land is declared for Dera Baba Braham Dass. In this manner, thus, 36 bighas and 01 biswa of the land stood utilized out of the total shamlat land of 72 bighas 14 biswas. Thus, the remaining land i.e. 36 bighas 13 biswas was to be distributed between the two villages, keeping in view the ratio of population i.e. 74.73%:25.27%. He further submits that respondent No.3 was entitled to 09 bighas 15 biswas which is undisputed. He has submitted that as evident, most of the plain land actually been given to petitioner-Gram Panchayat and the residents of Gram Panchayat Wazidpur had constructed their house in 284/5 which was originally a chhapper area and the maximum chunk of the same is with the Gram Panchayat Wazidpur. He further submits that the land which has been given to respondent No.3 pertains to three Khasra Nos. i.e. Khasra No.283(1-10) which is Gair Mumkin Maria, 284/2(5-7) Gair Mumkin Chhappar, 284/5 (2-18) Gair Mumkin Chhappar. It is submitted that the land falling in Khasra No.281 is still being used by the residents of Village Saini Majra as their

cremation ground while 284/5 is a chhappar land. Thus, he submits that both the parties are in possession of their respective lands. Respondent No.3 is already in possession of 09 bighas 15 biswas of land which is part of the land of Village Saini Majra. It is thus, submitted that no violation whatsoever of the directions given by this Court while disposing of LPA No.1104 of 2011 has been committed.

5. Learned State counsel has vehemently argued that the impugned order has been passed in accordance with the statutory provisions and the order passed by this Court in LPA No.1104 of 2011. He has drawn the attention of this Court to the reply filed wherein he submits that the population ratio between both the Gram Panchayats is 74.73%:25.27%. It is submitted that the Village Wazidpur was a bigger Village. It is submitted that as evident from the population ratio, petitioner-village is bigger village than the respondent-village and thus, the impugned order has been passed keeping in view the directions given by this Court. It is submitted that there being no infirmity in the impugned order, the present petition deserves to be dismissed.

6. This Court has heard counsel for the parties and perused the record with their able assistance. It is apparent that the petitioner-Gram Panchayat was bifurcated into two Gram Panchayats in 1993 and thereafter, though number of litigations were filed, finally LPA No.1104 of 2011 was disposed of by this Court wherein the following directions were given and the order impugned and passed by the Special Secretary read as follows:-

“The Hon'ble Punjab and Haryana High Court in LPA No.1104 of 2011 (inadvertently typed as LPA No.1166 of 2011) directed on 23.08.2012 while remanding the

case back to their department for decision of the case afresh held that the division of property made between Gram Panchayat Saini Majra and Wazidpur is not done as per Section 3(1)(2)(3) of Punjab Panchayati Raj Act.

For the compliance of above order and for decision of matter again both the parties have given an opportunity to put up their case and a report was obtained from Original Deputy Director after visiting the spot. As per Punjab Panchayati Raj Act, 1994, Section 3(1) the distribution of land shall be done between the new and old Gram Panchayat as per procedure prescribed under Sections 3(ii) and 3(iii).”

7. For just appreciation of the dispute, perusal of Section 3(ii) of the Act is as under:-

(ii) all lands and all stores, articles and other goods belonging to the existing Gram Panchayat shall:-

(a) If within the Gram Sabha area of that Gram Panchayat pass on to the successor Gram Panchayat in whose Gram Sabha area they are situated.

(b) If outside the Gram Sabha area of that Gram Panchayat be apportioned between the successor Gram Panchayats according to population ratio.

8. In view of the above, the property has been divided as per the provisions of Section as directed in LPA. Perusal of the impugned order would disclose that Khasra No.284/5, the area falling in share of petitioner-Gram Panchayat is 17-1 whereas in share of respondent No.3-Gram Panchayat is 2-18. It has been further directed that if any land of any Gram Panchayat is in illegal possession of any person, the responsibility to remove the illegal possession is of the concerned Gram

Panchayat.

9. Thus, in the considered opinion of this Court, the impugned orders have been passed in accordance with the directions given by this Court and no material prejudice is found to have been caused to either of the parties. Hence, finding no merit in the present petition, the same is hereby dismissed.

22.04.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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