



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

CWP No.22801 of 2014 (O&M)

Date of Decision: 28.11.2024

Chet Ram and others

.....Petitioners.

Versus

State of Haryana and others

.....Respondents.

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

Present:- None for the petitioners.

Mr. Saurabh Mago, DAG, Haryana.

G.S. SANDHAWALIA, J.(Oral)

The present writ petition challenges the provisions of Section 421 of the Haryana Municipal Corporation Act, 1973 under which the vesting of the land took place being *ultra-vires* of the Constitution of India and for restoration of the land belonging to the proprietors of the village and restraining the respondents from interfering with the possession of the land in dispute and from transferring the same to the third party.

2. Perusal of the paper-book would go on to show that even an application under Rule 2 of Chapter 1 of Part-C of Volume-5 of the High Court Rules and Orders of this Court for leave to file the instant writ petition was filed as the petitioners were not the parties in the Courts below



to claim similar beneficiary interest in the suit land has been filed along-with this writ petition.

3. The pleadings in the writ petition are contrary that the petitioners had filed a civil suit in Civil Court, Faridabad for seeking a declaration that the proprietors/share holders of Village Badkhal were owners in possession of Gair Mumkin Pahar and it was never vested in the Panchayat of the said village as it does not fulfil the definition of Shamlat and was never used for common purposes. The mutation No.1563 was challenged having been wrongly entered in favour of Faridabad Complex Administration and the civil suit had been transferred under Section 13(b) of the Punjab Village Common Lands (Regulation) Act, 1961 (for short, 'the 1961 Act') for trial to the Court of Assistant Collector 1st Grade, Faridabad. The said officer dismissed the suit vide order dated 27.06.2005 (Annexure P-1) and the appeal filed by the petitioners in the Court of Collector, Faridabad also met the same fate on 14.03.2006 (Annexure P-2). Then, the petitioners filed a revision in the Court of Commissioner, Gurgaon Division, Gurgaon, which was also dismissed on 28.01.2009 (Annexure P-3) and in such circumstances, the present writ petition has been filed. Reference has also been made to the writ petitions bearing **CWP No.969 of 2009** titled as **Ashok Kumar and others Versus State of Haryana and another** and **CWP No.7191 of 2009** titled as **Rakesh Kumar and others Versus State of Haryana and others**.

4. The claim as projected by the petitioners in the application filed along-with the writ petition is that the suit for declaration was filed in



representative capacity and the petitioners have vested beneficiary interest in the land in dispute by virtue of the proprietors/share holders of the village even before 1935-40, i.e much before filing of the suit. The petitioners claim themselves to be co-shares of land measuring 42 Kanals 07 Marlas, which has already been acquired by the State for the development and utilization as institutional Sector 48, Urban Estate, Faridabad. The land in dispute as such was wrongly mutated in favour of the Gram Panchayat and thereafter, transferred to Faridabad Complex Administration and then, to the Municipal Corporation and the petitioners have illegally been deprived from their valuable rights in the land in dispute. Thus, the petitioners have sought their claim against the acquisition on the basis of alleged ownership at that point of time.

5. Vide order dated 27.06.2005 (Annexure P-1), the Assistant Collector 1st Grade, Faridabad, had observed that the version of the petitioners that the land in dispute is not Banjar Kadim and it is a Gair Mumkin Pahar is wrong and incorrect because even the Gair Mumkin Pahar also falls in the definition of Banjar Kadim and it cannot be cultivated and as such the cultivation and possession of the petitioners on the suit land cannot be accepted. As per the provisions of Section 2(g)(1) of the 1961 Act, Gram Panchayat is the owner in possession of such type of land and after the implementation of the Faridabad Complex Regulation and Development Act, 1971, the land owned by the Gram Panchayat is now vested in Faridabad Complex Administration. The appeal and the revision filed by the petitioners before the higher revenue authorities were



also dismissed with the similar observations.

6. Perusal of the order dated 26.07.2022 passed by the Co-ordinate Bench of this Court in **CWP No.969 of 2009**, which was filed by the similarly situated proprietors, shows that the said petition was dismissed for want of prosecution, while referring to the judgment passed by the Hon'ble Supreme Court on 07.04.2022 in **Civil Appeal No.6990 of 2014** titled as **The State of Haryana through Secretary to Government of Haryana Vs. Jai Singh and others**. Similarly, the writ petition bearing **CWP No.7191 of 2009** referred to in the Index was also dismissed by the Co-ordinate Bench of this Court on 19.05.2022, in terms of the afore-said judgment of the Apex Court.

7. Vide order dated 30.07.2024, learned State counsel had also placed reliance upon the above-mentioned judgment passed by the Hon'ble Supreme Court in **Jai Singh and others' case (supra)** and it was stated that the said judgment has been reviewed by the Apex Court recently and the case was adjourned to 26.09.2024 for placing on record the order passed by the Apex Court in review. On 26.09.2024, learned counsel appearing for the petitioners prayed for more time to comply with the order dated 30.07.2024 and the matter was adjourned for 28.11.2024. Today, none has put in appearance on behalf of the petitioners. In such circumstances, it appears that the petitioners are not interested to pursue the present writ petition. Apparently, the land in dispute had been acquired way back in the year 1987 for the development and utilization for institutional Sector 48, Urban Estate, Faridabad. In such circumstances, we do not find any reason

to keep the instant writ petition pending.

8. Resultantly, the present writ petition stands dismissed in view of the above facts and circumstances. Pending civil miscellaneous application, if any, also stands disposed of.

(G.S. SANDHAWALIA)
JUDGE

November 28, 2024
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No