

**105 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-23033-2018 (O&M)

Date of Decision: 23.04.2024

Paramjit

..... Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. K.S. Dadwal, Advocate, for the petitioner.

Mr. Rajeev K. Takkar, Deputy Advocate General, Punjab.

Mr. Satbir Rathore, Advocate for
respondents No.9 to 11.

Ms. Srishti S. Sharma, Advocate for
respondent No.12.

Rajesh Bhardwaj, J.

1. Prayer in the present petition is for issuance of appropriate writ, order of mandamus directing the respondents No.1 to 6 to order probe into the land scam whereby the land of the provisional Government, which is recorded as *Gair Mumkin* road in the main Bazar at Talwara Situated in Khasra No.4345/1627 as per *Jamabandi* for the year 2012-13 (Annexure p-1) and stand sold by respondents No.9 to 11 to respondent No.12 by getting the sale deed executed from respondent No.8 who without consulting the record has registered the sale deed of the Government land and now after the representations dated 06.08.2018 and 10.08.2018 (Annexures P-3 and P-4) given by the petitioner, they are trying to tamper and forge the record to create some Min Khasra number and therefore, with regard to the whole bungling, after getting the report, order the remedial action against the guilty persons so that the land in road is not usurped by causing inconvenience to the petitioner and others, which would be apparent from the narration of the factual position, which is being set out in the Civil Writ

Petition.

2. It has been submitted by learned counsel for the petitioner that the petitioner is a Member of Zila Parishad and earlier remained Sarpanch of Talwara Halder from the years 2002 to 2008. He submits that the petitioner is utilizing the passage where apart from himself, the other villagers also using this passage. He submits that respondent No.12 started creating hindrance in the passage by claiming that 2 Marlas of land situated in Khasra No.4345/1627 belongs to him, as he has purchased the same from the real owners i.e. respondents No.9 to 11 and even in connivance with the anti social elements, they tried to attack one shopkeeper, namely, Chander Shekhar. He submits that Chander Shekhar immediately raked up the issue of his protection to the Police, but no action was taken due to the influence of respondent No.12. It is submitted that the petitioner was apprehensive of the fact that the road would be usurped and closed by these persons, hence the petitioner verified the revenue record, from where it was found that respondents No.9 to 11 were having 1 Kanal of land i.e. *Gair Mumkin Khad* in Khasra No.1627. He submits that initially 18 Marlas of land was acquired and thereafter, 2 Marlas was also acquired and thus, it was clear that respondents No.9 to 11 had no share in the property. He has submitted that *Jamabandi* for the year 2012-13 of village Talwara, where Khasra No.4345/1627 was recorded in the ownership of Provisional Government and column of cultivator Makbuja Department of Canal and 2 Marlas *Gair Mumkin* road was found mentioned. It is submitted that thus, it was evident that there was no further land in the ownership of respondents No.9 to 11 but they still executed a sale deed dated 15.09.2017 with regard to the same Khasra numbers. He submits that on the basis of the said sale deed,

respondent No.12 started claiming possession with regard to the road land. It is submitted that respondent No.12 in connivance with the authorities started manipulating the record and also sought demarcation. He has submitted that although in the sale deed as well as in the revenue record Khasra No.4345/1627 of 2 Marlas was find mentioned wherein at present road is running and the public is utilizing the same, but in connivance with the Patwari and other revenue officials, specially respondent No.8 who already executed the sale deed of the Government land in connivance with respondents No.9 to 11, started manipulating the record and trying to carve out some Min Khasra number, when respondents No.9 to 11 were not having any share. It is further submitted that the petitioner filed representation to respondent No.5 on 06.08.2018 stating therein that forgery was being committed by officials respondent in order to save respondent No.8, who had executed the sale deed. He has submitted that despite the complaints, respondent No.12 is in process of alienating the property and encroachment is being made by raising constructions.

3. Notice was issued in the present case and the respondent-State was directed to file the reply.

4. Learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner. He has submitted that the petitioner has not approached this Court with clean hand and he has no *locus standi* to file the present petition. However, he has drawn the attention of this Court to the reply filed and has submitted that the alleged land belongs to the State. He submits that on the representation filed by the petitioner before respondent No.5, enquiry was conducted in the presence of the petitioner and respondent No.12. Report of the same was sought from

respondent No.8. It is submitted that as per enquiry conducted, it has been found that in the year 1962-63 the Government of Punjab acquired land bearing Khasra No.1627 measuring 1 Kanal, mutation of the same was sanctioned in favour of the State Government vide mutation No.2034 as per notification dated 18.04.1963 and Khasra No.4344/1627/1 measures 0-18. Thus, remaining 0-2 land was transferred into the account of the real owner bearing Khasra No.4344/1627/2 measuring 0-2. Thereafter, vide mutation No.2571 as per notification dated 03.08.1967, the State acquired the remaining 0-2 land bearing Khasra No.4344/1627/2/2 and the same was sanctioned in favour of the State Government and remaining Khasra No.4345/1627/2/2 measuring less than 1 Marla (*Kamaj Marla*) remained under the real owner. He further submits that later on inadvertently while preparing the *Jamabandi* for the year 1972-73, it was found that Khasra No.4345/1627/2/2 measuring 2 Marlas instead of (*Kamaj Marla*) in favour of the real owner and thus, was also recorded in favour of the Government and the same kept on repeating till *Jamabandi* for the year 2012-13. He submits that the real owner sold the property vide sale deed dated 22.09.2017 and mutation of the same was sanctioned in favour of the purchaser, namely, Navjot Singh. Thereafter, respondent No.12 submitted his application to respondent No.5 for demarcation of the land bearing Khasra No.4345/1627/2/2. He submits that when the record was perused, the concerned revenue authority found that the land in question was already acquired and inadvertently in the year 1972 wrongly shown that owner is having 2 marlas land instead of less than 1 marla (*Kamaj Marla*). It is submitted that respondent No.12 was informed about this very fact and as such he filed an application for correction of mutation No.10224 and 10226,

wherein respondent No.12 deposed that “he has no objection whatsoever if the area is mentioned less than one marla instead of 0-2 marlas by way of memo of correction (*Fard Badar*)” and the same was entered in the revenue record. He has submitted that the petitioner has encroached or using the abovesaid land, which is less than one marla and the private respondent No.12 is trying to take possession of the said land. He submits that both the petitioner and respondent No.12 had the grievances against each other. It is submitted that one kanal of land which was acquired is under the possession of the Government, whereas, the petitioner is raking up the issue regarding the land which is shown as *Kamaj Marla*. It is further submitted that inadvertent mistake which was there in the record had already been rectified and thus, no further cause of action survives to the petitioner in the present petition.

5. Learned counsel for respondents No.9 to 11 & 12 have opposed the submissions made by learned counsel for the petitioner.

6. Heard.

7. It is evident that the petitioner has approached this Court contending that respondent No.12 in connivance with the official respondents has encroached upon the land that belongs to the State. However, it is evident from the reply filed by the State that the State Government had acquired 1 Kanal of land in the year 1962-63, out of which initially possession was taken of 18 Marlas of land and later on possession of the remaining land i.e. 2 Marlas was taken. Later on inadvertently while preparing the *Jamabandi* for the year 1972-73, it was wrongly recorded as the ownership of the real owner and the same mistake kept on repeating till the *Jamabandi* for the year 2012-13. Now the inadvertent mistake has been found to be rectified. The petitioner has raised grievance regarding

encroachment on the land which does not belong to the State and the same has been recorded as *Kamaj Marla*. However, as per the contentions raised by learned State counsel, respondent-State has already taken the possession of 1 Marla of land which was acquired. But the petitioner has raised the issue regarding the land which has been shown as *Kamaj Marla* and the same amounts to a disputed question of facts and cannot be adjudicated in the writ jurisdiction.

8. Thus, the present petition is disposed of with liberty to the petitioner that if he has any further grievance regarding the land which is shown to be *Kamaj Marla*, then to avail his remedy as available to him under law.

23.04.2024
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No