



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

202

**CWP-4901-2017
Date of Decision: 29.08.2024**

SUKHDEV SINGH AND ORS.

... Petitioners

VERSUS

UNION OF INDIA AND ORS.

... Respondents

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

Present: Mr. L.S. Sidhu, Advocate
for the petitioners.

Ms. Akshita Chauhan, DAG, Punjab
for respondents No.2 and 3.

Mr. Sourabh Goel, Sr. Panel Counsel with
Ms. Anju Bansal and Ms. Geetika Sharma,
Advocates for respondents No.1 and 4 to 6.

VINOD S. BHARDWAJ, J. (ORAL)

Prayer in the present petition is for directing the respondents to allow the petitioners and their labours to cultivate the land measuring 174 Kanals 18 Marlas situated across fencing in the area of village Gatti Telu Mal, Tehsil and District Ferozepur by allowing the petitioners to reach their agriculture land for sowing the crops and for taking care of sown crops and/or for any other agriculture purposes.

A written statement had been filed by respondents No.1 and 4 to 6 on 08.09.2017 with copy thereof having been supplied to the counsel for the petitioners. The specific averments made in the said reply are extracted as under:

**CWP-4901-2017****-2-**

- “2. The contents of paras 2 of the writ petition are denied for want of knowledge. However, as per letter number 1921/Sadas/Sadak-3 dated 13th Jan’ 2015 issued by Sub Divisional Magistrate, Ferozepur, the petitioners are not having land beyond the IBB Fence in area of village Gatti Telu Mal, Ferozepur as they have claimed. Copy of letter No.1921/Sadas/Sadak-3 dated 13th Jan’ 2015 issued by Sub Divisional Magistrate, Ferozepur is **Annexure R-1/1**.

Besides above, as per Deputy Commissioner, Ferozepur (DRA Branch) vide their letter No.DRA/ADRA/2014/1937 dated 11 Nov’ 2014 directed to the BSF Officials to ensure that no one should be allowed to occupy the government land beyond the border fence. It is also stated that certain persons who have ownership of land beyond the border fence also occupied the government land in garb of cultivating their private land and they should be restricted for cultivating govt. land. Letter No.DRA/ADRA/2014/1937 dated 11 Nov’ 2014 **Annexure R-1/2**.

Filing of the present writ petition is against law and facts on record and is liable to be dismissed. The present petition involves disputed question of fact which can be determined only after leading detailed evidence.

XXX XXX XXX

4. The contents of para 4 of the writ petition are wrong and denied. The residents of Border areas whose agricultural land falls across the border security fence are being issued Kissan Gate Pass on their request by BSF authorities to cultivate their lands only after ascertaining facts of their land from revenue records and verifying their character &

**CWP-4901-2017****-3-**

antecedents by Police authorities. It is the responsibility of the individual concerned/ interested party to produce requisite documents to BSF authority for issue of Kissan Gate Pass. However, family card as mentioned in writ petition Annexure "P-5 to P-7" had been issued to family members of land owner but there is no land in the name of petitioners ahead of Border Security Fencing.

XXX XXX XXX

6. *That the contents of para 6 of the writ petition are wrong and vehemently denied. As the BSF authorities take prompt action to issue date pass to the owners whose land falls across the border security fence on their request to cultivate lands only after ascertaining land revenue records and verifying their character & antecedents by Police authorities. It is the responsibility of the individual concerned/interested party to produce the following documents for obtaining the pass:-*

- (i) Application for issue of gate pass.*
- (ii) Character certificate and general remarks duly signed by village Sarpanch with name and seal.*
- (iii) Proof of holding land across the fencing (Land record).*
- (iv) A certificate from Patwari giving details of land Khasra No. location of land etc. with reference to border pillar.*
- (v) Character certificate of applicants/his family members authenticated by police authorities giving name of official, number and seal of Police Station.*
- (vi) Passport size 02 photographs.*

**CWP-4901-2017****-4-**

Kissan gate pass/identity cards can be issued only on verification of land records from revenue authorities and re-verification of character and antecedents records from concerned police authorities. The petitioners never approached the BSF authorities with the requisite documents for issuance of gate pass.

XXX XXX XXX

9. *That the contents of para 9 of the writ petition are wrong and vehemently denied. The BSF can allow only authorized owners of the land to cross the Border Security Fencing for cultivation of land after proper verification but as per letter number 1921/Sadas/Sadak-3 dated 13th Jan' 2015 issued by Sub Divisional Magistrate, Ferozepur, the petitioners are not having land in area of village Gatti Telu Mal, Ferozepur whereas they have claimed to be the owners.*

BSF will take all appropriate action in accordance with law to ensure the safety, security and possession of land of farmers laying of Border fencing in co-operation with concerned farmer. The present petition involved disputed questions of fact and the same is therefore not maintainable is liable to be dismissed.”

Despite the abovesaid reply having been filed in the year 2017, no replication/rejoinder has been filed by the counsel for the petitioners. Counsel for the petitioners was also confronted with contents of the written statement that have been noticed by this Court in its order dated 31.10.2023; which reads thus:

“Learned counsel for respondents No.1, 4 and 6 has referred to para Nos.1, 2 and 4 of the written statement filed on

**CWP-4901-2017****-5-**

their behalf to contend that the petitioners are not having any land beyond the IBB Fence in area of Village Telu Mal, Ferozepur as such in the absence of any document indicating their ownership of land falling beyond the fencing, the claim of the petitioner cannot be allowed.

Learned counsel for the petitioners seeks time to file replication and to place on record the documents in order to controvert the specific stand taken by respondents No.1, 4 and 6.

Adjourned to 22.01.2024.

(HARPREET SINGH BARAR)
JUDGE”

The matter has been taken up on two different occasions thereafter, however, no documents or replication/rejoinder has been filed so far.

On being confronted with the above, the counsel for the petitioners now seeks permission to withdraw the present petition so as to file a fresh petition alongwith all relevant material and evidences to substantiate the said aspect, if so available.

Counsel for the respondents have no objection to the same.

Disposed of as withdrawn with the liberty as aforesaid.

AUGUST 29, 2024
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No