

136 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-33837-2024 (O/M)

Date of decision : 16.12.2024

Gajey Singh

..... Petitioner(s)

Versus

State of Haryana and others

..... Respondent(s)

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Karan Singh, Advocate
for the petitioner(s).

Ms. Upasana Dhawan, AAG Haryana.

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HARSH BUNGER, J. (ORAL)

1. Petitioner (Gajey Singh) has filed the instant civil writ petition under Articles 226/227 of Constitution of India, inter alia, seeking a writ in the nature of mandamus directing the official respondents to suspend/terminate private respondent (Sanjeev Kumar) from the post of Sarpanch of Gram Panchayat Rattangarh, Block Jagadhri, District Yamuna Nagar.

2. Briefly, the present petitioner alongwith others filed a writ petition (CWP-1197-2013) inter alia seeking a direction to the official respondents therein to complete the proceedings of sale in pursuance to order dated 19.12.1992 (Annexure P-1) and 24.02.1999 (Annexure P-2), passed under Section 7 of Punjab Village Common Land (Regulation) Act, 1961 and to issue title deeds to them. The said writ petition came to be disposed of by a Division Bench of this Court, vide order dated 12.08.2013 (Annexure P-4) by observing as under :-

“ In reply filed, it is only stated that the Assistant Collector Ist Grade, when passing orders in the year 1992 and 1999, was not competent to order sale of the property in un-authorised possession of the petitioners/their predecessors in interest.

Be that as it may. Order dated 19.12.1992 has become final and it has never been challenged. The matter came to the notice of the State Authorities when the Gram Panchayat sent a resolution to approve sale in favour of the petitioners. Nothing was done, rather the Deputy Commissioner asked the BD & PO to send the record so that the mutation be entered in the name of the petitioners.

For 10 years, no action was taken and now it is not open to say that the competent authority i.e. the Assistant Collector Ist Grade was not competent to grant permission for sale, over which construction was un-authorisedly raised, as was ordered by him vide orders dated 19.12.1992 and 24.2.1999 Annexure P-1 and P-2, respectively.

It is further stated that the land upon which construction was raised by the petitioner, was reserved for johar and some part of it was part of cremation ground.

That objection cannot be taken at this stage because it has come on record that total land shown against johar was 42 kanals, falling in Khasra Nos. 83 and 85. It is specifically stated at Bar that no construction was raised on land reserved for Hadda Rori and cremation ground. So far as johar land measuring 42.2 kanals is concerned, construction exists only on 23 kanals of land, which was found to be very old.

We have seen the photographs of the houses constructed thereupon, which seem to be old one's.

Under the circumstances, there is no justification in not granting approval to the sale, as ordered by the competent authority, in compliance to which the petitioners

had deposited the requisite amount and resolutions were also passed by the Gram Panchayat for approval of the same.

Before us, counsel for the Gram Panchayat, during arguments, states that the Gram Panchayat has no objection to the sale as ordered.

In view of above, this writ petition is allowed. Respondent No.1-State is directed to grant formal approval of sale in favour of 39 persons, whose names found mention in Annexure P-3. Needful shall be done within four months.”

2.1 It appears that a Special Leave to Appeal (C) (SLP) No. 2905/2016 filed against the aforesaid order dated 12.08.2013 (Annexure P-4) was also dismissed on 08.02.2016 (Annexure P-5).

2.2 It transpires that the order dated 12.08.2013 was not complied with, whereupon the petitioner alongwith others preferred a contempt petition (COCP-3604-2023).

2.3 According to the petitioner, during the pendency of the contempt petition, the Panchayat Department, vide order No. 2242 dated 14.02.2024, authorized the Sarpanch/Panch, Gram Panchayat Rattangarh to get the sale deed executed in the name of 39 persons (including the petitioner). It is noticeable that the aforesaid order dated 14.02.2024 has not been attached with the writ petition.

2.4 Be that as it may, it appears that respondent No. 5-Sanjeev Kumar was suspended, vide order dated 30.04.2024 (Annexure P-6), passed by the Deputy Commissioner, Yamuna Nagar; primarily on the ground that he had not followed the orders passed by this Court and also the orders passed by the higher officials.

2.5 Apparently, respondent No. 5 challenged his suspension order dated 30.04.2024 by filing a statutory appeal before the learned

Commissioner, Ambala Division, Ambala, however, his prayer for staying the order dated 30.04.2024 was declined, vide order dated 14.05.2024 (Annexure P-7) and thereafter, vide order dated 11.06.2024 (Annexure P-8). Thereafter, the petitioner approached this Court by filing CWP-14488-2024, wherein notice of motion was issued for 27.08.2024 and it was further ordered that the operation of the order dated 30.04.2024 shall remain stayed till the next date of hearing or till final adjudication of the appeal, whichever is earlier.

2.6 It is not disputed that on 27.08.2024, the matter was not taken up for hearing by this Court and the writ petition (CWP-14488-2024) stands adjourned to 08.01.2025. It is also not disputed that the statutory appeal filed by respondent No. 5 (Sanjeev Kumar) against his suspension order, is pending consideration before the learned Divisional Commissioner, Ambala for 13.01.2025.

3. In the aforementioned circumstances, the petitioner has filed the instant civil writ petition for directing the official respondents to suspend/terminate respondent No. 5 from the post of Sarpanch as no further stay (after 27.08.2024) has been extended by this Court in CWP-14488-2024.

4. I have heard learned counsel for the petitioner and have also perused the paperbook with his able assistance.

5. In my considered view, the instant writ petition is premature. In the writ petition (CWP-14488-2024), filed by respondent No. 5, the operation of his suspension order dated 30.04.2024 was ordered to be stayed till the next date of hearing in the writ petition or till final adjudication of the appeal, whichever is earlier. Concededly, the writ

petition (CWP-14488-2024) was not taken up for hearing on 27.08.2024 and the matter stands adjourned to 08.01.2025. On the other hand, the statutory appeal filed by respondent No. 5 (Sanjeev Kumar) against his suspension order, is pending consideration before the learned Divisional Commissioner, Ambala for 13.01.2025. It would be in the fitness of things to await the outcome of the aforesaid writ petition (CWP-14488-2024), filed by respondent No. 5 and/or the final decision to be rendered in the statutory appeal filed by respondent No. 5 (Sanjeev Kumar) against his suspension order dated 30.04.2024.

6. In view of the above, the present writ petition is dismissed, however, leaving it open to the petitioner to seek his remedies, if need arises, after the decision of the aforesaid writ petition (CWP-14488-2024), filed by respondent No. 5 and/or upon the final decision to be rendered in the statutory appeal filed by respondent No. 5 (Sanjeev Kumar) against his suspension order dated 30.04.2024.

7. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

16.12.2024
sjks

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