



CWP-9088-2000 (O&M)

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

**CWP-9088-2000 (O&M)
Date of Decision: 03.04.2025**

SARDUL SINGH

.. Petitioner

Vs.

STATE OF PUNJAB & ORS

..Respondents

**CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Malkeet Singh, Advocate
for the petitioner.

Mr. Amit Kumar Goyal, Addl.A.G., Punjab.

...

DEEPAK SIBAL, J. (ORAL)

1. Through the present petition the petitioner seeks quashing of the order dated 18.05.2000 passed by the Financial Commissioner & Secretary to Government of Punjab, Department of Rural Development & Panchayats, whereby the exchange of 1 kanal 13 marlas of shamlat land with 3 kanal 4 marlas of land belonging to respondent No.3 was permitted under Rule 5 of the Punjab Village Common Lands (Regulation) Rules, 1964 (for short, 'the Rules').

2. The facts as brought out from the present petition are that the petitioner is a resident of Village Gotra Lahri, Pathankot, where he claims to own and possess land which he is irrigating for the last 20 years from the watercourse regulated at RD 52680 in the Hydel Channel which falls within Khasra Nos.39 and 58 in the area of his Village. During consolidation proceedings, the land under the watercourse was categorized as 'Gair

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Mumkin Khul'. In the year 1995, Deepak Kumar, who is the son of respondent No.3, dismantled the said watercourse. When the petitioner brought this fact to the notice of the Sub-Divisional Officer (Civil), Pathankot, directions were issued for the demarcation of the land under the watercourse. Subsequent to the demarcation, the afore watercourse was re-excavated.

In the year 1998, Deepak Kumar was elected as Sarpanch of Gram Panchayat of Village Sulanpur. By leveraging political influence, he managed to secure the passing of the impugned order dated 18.05.2000 through which the land, over which the afore referred watercourse was running, was exchanged with land of respondent No.3. This exchange resulted in the land, previously used by the petitioner for irrigation of his land, being transferred to respondent No.3. The said exchange was purportedly carried out under Rule 5 of the Rules. Deepak Kumar then filed a civil suit seeking therein an injunction to restrain the petitioner from using the land over which the watercourse was running. Along with his civil suit, an application under Order 39 Rules 1 and 2 CPC was also filed by him, which was dismissed by the Civil Judge, Pathankot.

On 19.07.2000, the present petition came up for preliminary hearing on which date a Co-ordinate Bench issued notice and stayed the operation of the impugned order.

Despite being duly served, even after the passage of about 25 years, neither the State nor the concerned Gram Panchayat or even respondent No.3 have filed any response to the present petition. Therefore, the facts as pleaded by the petitioner are taken to be the correct factual narration.

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5. Learned counsel for the petitioner and the learned State counsel have been heard and with their assistance the record of the case has also been perused.

6. The impugned order reads as follows:

“The worthy Governor of Punjab which pleased approve the proposal sent by the Divisional Deputy Rural Development & Panchayats, Jalandhar to Director, vide letter No. 556/A/1/2000 dated 10.3.2000 pursuant to Panchayat Gurdaspur resolution dated 21.10.1999 of the Gram Sultanpur, and Block Pathankot, Vide Gram Sabha Resolution District dated 10.12.1999 for the purpose of exchange of shamlat land comprised in khewat. No. 46/44, Khautani No. 121, Khasra No. with 58 area i kanal 13 marla shown as Gair mumkin kuhl the Sansar private land of Shri Ram Parkash son Dass Sultanpur, of son of Heera Ram, resident of village Block Pathankot, District Gurdaspur comprised in khewat No. 17/14, Khautani No. 49 Khasra No. 11/13/2/2 area 1 marla, Khasra No. 18/2 area kanal 3 marla Total 3 kanal 4 marla for the purpose 3 of Consolidation of the shamlat land measuring 1 kanal 13 marla in order to augment the income of the Gram Panchayat under Rule-5 of the Punjab Village Common Lands (Regulation) Rules-1964.”

7. The afore-quoted impugned order has purportedly been passed under Rule 5 of the Rules. The said Rule reads as under:

*“5. **Exchange of land.** [Sections 5 and 15 (2) (f) of the Act] - A Panchayat, if it is of opinion that it is necessary so to do for the benefit of the inhabitants of the village may with the prior approval of the Government, transfer any land in shamlat deh by exchange with the and of an equivalent value.”*

8. As per the afore-quoted provision of the 1964 Rules, if the panchayat is of the opinion that if it is necessary for the benefit of the inhabitants of the village, it may exchange shamlat land with land of equivalent value.

9. In the afore-quoted impugned order no reason is found as to how the exchange of respondent No.3's land with shamlat land of respondent No.2-Gram Panchayat would benefit the inhabitants of the concerned village. A reading of the impugned order further does not reveal as to whether the lands being exchanged were of equivalent value. No justification has also been provided by the State or the Gram Panchayat or



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even the private respondent to support the impugned order. Therefore, we have no hesitation in holding the impugned order to be in violation of the Rules and order its quashing especially when its operation was stayed by this Court for a quarter of a century.

- 10. The petition is allowed in the above terms.
- 11. No costs.

(DEEPAK SIBAL)
JUDGE

03.04.2025
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No