

In the High Court of Punjab and Haryana at Chandigarh

- 1.** **CWP No. 24136 of 2016**
Reserved on 16.3.2023
Date of Decision: 23.3.2023

Ravinder and othersPetitioners

Versus

State of Haryana and othersRespondents
- 2.** **CWP No. 25367 of 2016**

Balwan and othersPetitioners

Versus

State of Haryana and othersRespondents
- 3.** **CWP No. 2200 of 2017**

Lokesh Dutt and othersPetitioners

Versus

State of Haryana and othersRespondents
- 4.** **CWP No. 7961 of 2018**

Sandeep and othersPetitioners

Versus

State of Haryana and othersRespondents
- 5.** **CWP No. 16156 of 2022**

Jaswant KumarPetitioners

Versus

State of Haryana and othersRespondents
- 6.** **CWP No. 15496 of 2022 (O&M)**

Chandrup and othersPetitioners

Versus

Suresh Kumar and othersRespondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI

Argued by: Mr. Vikram Singh, Advocate
for the petitioners (in CWP-24136-2016, CWP-2200-2017 and
CWP-25367-2016).

Mr. Balraj Singh Rathee, Advocate
for the petitioners (in CWP-7961-2018 & CWP-15496-2022).

Mr. Vijay Deep Rathee, Advocate
for the petitioners (in CWP-16156-2022).

Mr. Pardeep Prakash Chahar, DAG, Haryana.

Mr. B.S.Bedi, Advocate and
Mr. Simar Bedi, Advocate for respondent No. 4
(in CWP-24136-2016 & CWP-2200-2017) and
for respondent No. 5 (in CWP-25367-2016).

Ms. Vasundhra Asija, Advocate for
Mr. P.S.Chauhan, Advocate
for respondent No. 2 (in CWP-16156-2022).

SURESHWAR THAKUR, J.

1. Since all the writ petitions emerge from common theretos impugned orders, therefore all the writ petitions are amenable for being decided through a common order.
2. For the sake of brevity, the facts, which are necessary for deciding the above mentioned writ petitions, are being taken from CWP-24136-2016.
3. The contested resolution is appended as Anneuxre P-1 to CWP No. 24136 of 2016. The said resolution was drawn on 12.8.2014. In an annexure appended therewith, there is a reference of gada khad and plot etc. carrying a dimension of 495 kanals and 16 marlas. Moreover, there is also a further reference therein, that a gair mumkin gada and banjar qadim land occurring in an expanse of 516 kanals and 07 marlas. Moreover, the resolution speaks about approval being made for allotments of lands described, as gada khad, to the allottees concerned.

4. The said resolution was forwarded to the competent authority concerned. However, at the time, when the competent authority received Annexure P-1 for approval, then the petition lands evidently fell within the jurisdiction of Municipal Corporation, Sonapat. Moreover, the competent authority through the drawings of Annexure P-4 on 3.3.2016, disapproved the resolution of the Panchayat concerned.

Submissions of the learned counsels for the petitioners

5. The learned counsels for the petitioners, have most vigorously contended before this Court, that in terms of the proviso to sub-Rule 4 of Rule 8 of the Haryana Village Common Lands (Regulation) Rules, 1964, rule whereof extracted hereinafter, hence a privilege becomes bestowed, upon the Gram Panchayat concerned, to allot the land reserved as a gada khad, to the members of scheduled castes or backward classes or any landless labourers or tenant. Therefore, they argue, that the impugned orders are infirm, and, are required to be set aside, as they are made on a misinterpretation of proviso (supra), as occurs at the end of the Rule 8 (supra).

(4) The Panchayat may if necessary, earmark suitable land for use as manure pits by the inhabitants of the village on such nominal charges as may be fixed by it;

Provided that the Panchayat may exempt a member of Scheduled Castes or Backward Classes or any landless labourer or tenant on the ground of poverty from the payment of such charges.

Analysis of the above submission and its rejection

6. However, the above made submission is completely devoid of any merit, and, is rejected. The reason for making the above conclusion, is rested, upon a complete reading of the above extracted rule. A keen reading

of the said rule reveals, that the shamilat deh lands are permissible to become utilized by the Panchayat, through a resolution in writing, but only for (a) grazing purposes, (b) collecting dry fire-wood from the jungle on terms laid down by the Panchayat (c) open spaces near the Abadi deh may, with the previous permission of the Panchayat and in the manner laid down by it, be utilized by the inhabitants of the village for threshing the harvests, (d) the Panchayat concerned, if necessary, may earmark suitable land for use as manure pits by the inhabitants of the village on such nominal charges as may be fixed by it. However, the proviso underneath sub-Rule (4), empowers the Gram Panchayat concerned, to exempt a member of the scheduled caste or backward class or any landless labourer or tenant but only on the ground of poverty. However, the exemption assigned in the proviso underneath sub-Rule (4) of Rule 8, is restricted only in respect of the charges, which are otherwise leviable qua user of the designated manure pits by the Gram Panchayat concerned. Resultantly, the meaning of the proviso, is but none other than the above, and, obviously cannot lead to any interpretation, that it yet assigns any leverage or privilege in the Gram Panchayat concerned, to even carve plots from gair mumkin gada khad, and, to thereafter make resolution for allotments thereof, in purported terms of the proviso to sub-Rule (4) of Rule 8 rather to any member of the scheduled caste or backward class or to any landless labourers or tenant.

Final order

7. In view of the above stated reasons, this Court does not find merit in all the petitions, and, is constrained to dismiss them.

8. Consequently, CWP No. 24136 of 2016 and CWP No. 25367 of 2016 are dismissed. The impugned orders are maintained, and, affirmed.

9. Since the orders passed by the competent authorities below have been affirmed, therefore, the asked for relief in CWP-2200-2017, CWP-7961-2018, CWP-16156-2022 and CWP-15496-2022, cannot be granted to the petitioner(s) concerned. Accordingly, all the petitions (supra) are also dismissed.

10. The pending application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

March 23, 2023
Gurpreet

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