



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 18th DECEMBER, 2023

IN THE MATTER OF:

+ **W.P.(C) 11198/2023 & CM APPL. 43569/2023**

KUNWAR MAHENDER DHWAJ PRASAD SINGH Petitioner

Through: Mr. M L Sharma, Advocate

versus

UNION OF INDIA Respondent

Through: Mr. Ajay Digpaul, CGSC with
Mr. Kamal Digpaul, Ms. Swati
Kwatra, Advocates

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The Petitioner claims to be the successor and heir of the Beswan family and claims property rights to the Beswan Avibhajya Rajya as its ruler, which consists of United Province of Agra running between river Yamuna and Ganga from Agra to Meerut, Aligarh, Bulandshahr including, 65 revenue estates of Delhi Gurgaon and Uttarakhand. The Petitioner has approached this Court by filing instant writ petition praying for the following reliefs:

"a) Direct the Union of India by appropriate direction to adopt the process of merger, accession or enter into treaty with the petitioner and acquisition of territories of the petitioner and pay the due compensation to the petitioner.

b) Direct the Union of India not to conduct election for Lok Sabha, Rajya Sabha, Assemblies, Local Bodies



within the territory of petitioner, without following the due process of law for merger of sovereign state United Provinces of Agra i.e. Sovereign State of Beswa Avibhajay Rajya of Beswan territories of petitioner into Union of India.

c) Direct the Union of India not to collect any revenue with immediate effect within the territory of petitioner without following due process of law merger, acquisition and payment of compensation.

d) Direct the Union of India to assess the revenue so far collected ever since 1950 to till date within the territory of petitioner and pay the same to the petitioner or deposit in Hon'ble Court as per law.

e) Direct the Union of India not to carry out any construction work/ allow any construction work in agricultural land and any other land within the territories of the petitioner till decision of the present Writ Petition including unauthorised colonies area.

f) Direct the Union of India not to take any decision in respect of all unauthorized colonies 1731 and 69 situated on the territory of petitioner without following the merger or acquisition and payment of compensation as per law.

g) Direct the Union of India, if not possible to acquire the land and properties of petitioner merger, ultimately get the territories of the petitioner vacated and handover the same to the petitioner.

h) Direct the UOI till such time, the territories are handed over to the petitioners no construction, alteration or any lease/ allotment of the land or the properties be allocated without the permission of the court, deposit of compensation in the court, the



properties of the petitioner be protected from creating 3rd party interest by competent authority/ officials of Union of India.

i) Any other relief which the Hon'ble Court may deem fit. and proper on considering that the territories of the petitioner have been trespass encroached upon misused and heavy damages cause to the property and financial loss, cause to the petitioner, may also be passed in favour of the petitioner and against the respondent.

j) Alternatively till merger, accession, acquisition process is completed, the U.O.I. may be directed to take the sensitive area of Delhi be taken on lease on payment of lease amount, from the petitioner being owner of land and properties in question, with permission of Hon'ble Court."

2. The Genealogy given by the Petitioner by which the Petitioner traces his rights on the properties reads as under:-

BESWAN AVIBHAJYA RAJYA

Beswan Estate, Hathras Estate, Mursan Estate, Vrindavan Estate, Jarkhi Estate

PEDIGREE

Raja-Thakur Makhan

!

Raja- Thakur Nand Ram (1645-1695)

!

Raja- Thakur Jai Singh

!

Raja- Thakur Badan Singh

!

Raja- Thakur Bhure Singh (Died in 1775 AD)



!
Raja- Thakur Naval Singh (Died in 1800 AD)
 !
Raja- Thakur Harkishan Singh (Died in 1808)
 !
Raja- Thakur Gir Prasad Singh (Died in 1880)
 !
Raja- Thakur Jai Kishore Singh (Died in 1884)
 !
Raja- Thakur Garud Dhvaj Prasad Singh (Died 31-03.1912)
 !
Raja-Thakur Mat Matang Dhvaj Prasad Singh
Raja- Thakur Rohini Raman Dhvaj Prasad Singh
(Died in 1950)

!
Kunwar Radha Kunwar Kunwar Kunwar
Raman Dhvaj Chandra Bhupendra Mahendra
Prasad Singh Shekhar Dhvaj Dhvaj
(Expired) Dwaj Prasad Prasad Prasad Singh
Singh
(Expired) (Expired)

3. It is stated that the Petitioner is the only surviving son of the four sons of Raja Thakur Mat Matang Dhvaj Prasad Singh and, therefore, claims to be the present Ruler of the Beswan Avibhajya Rajya. The Petitioner also places reliance on the fact that the British Government passed Raja Mahendra Pratap Short title Singh Estates Act, 1923 and granted Sanad dated 07.09.1924 in favour of Prem Pratap Singh. It is stated that in 1960 the Union of India vide Bill, Sh. Mahendra Pratap Singh Estates (Repeal) Bill, 1960, has repealed the Act, 1923 and has withdrawn the Sanad dated 07.09.1924.

4. It is claimed by the Petitioner that the Beswan Avibhajya Rajya as on date holds the status of a Princely State and the Beswan family holds the



territories of United Provinces of Agra running between river Yamuna and Ganga from Agra to Meerut, Aligarh, Bulandshahar and other territories.

5. It is stated that in 1900 AD, there arose a dispute between two brothers in the Beswan family, namely, Garud Dhvaj Prasad and Superun Dhvaj. The matter was taken upto the Privy Council and *vide* Judgments dated 08.05.1900, 10.05.1900 and 27.06.1900, it was decided in favour of Garura Dhvaj Prasad. It is stated that in 1911, Britishers shifted their capital from Calcutta from Delhi and included the Province of Agra and Oudh in the territory of Delhi without any annexation of the properties and, therefore, the sanad dated 07.09.1924 assumes significance.

6. It is stated that in the year 1947-48 during the political integration of British India, 562 Princely States were acceded by the Rulers to the Government of India but the forefathers of the Petitioner did not enter into any treaty nor was there any accession and hence Avibhajya Rajya of Beswan till date holds the status of an independent Princely State. It is stated that the land between United Province of Agra running between river Yamuna and Ganga from Agra to Meerut, Aligarh, Bulandshahar, 65 revenue states of Delhi, including Gurgaon and Uttarakhand comes under the Princely State of Bewan family and the land belongs to the Petitioner's family since there was no accession agreement signed between the forefathers of the Petitioner and the Government of India.

7. It is the contention of the Petitioner that the Central Government and the State Government of Uttar Pradesh without following the due process of law has encroached upon the rights of the Petitioner have dealt with the properties of the Petitioner and despite various complaints given by the Petitioner, no action has been taken.



8. It is further stated that the Petitioner has filed several litigations in respect of the land and properties which he claims that are of Beswan family in the present State of Uttar Pradesh, which reads as under:-

- a. 1962: Writ Petition No.311/1962 at Allahabad High Court regarding town area and Nagar Panchayat.
- b. 1987: Civil Suit No. 214/1987, stay matter is pending in respect of the land.
- c. 1994: Suit No.526/1994 in respect to Kewat No.1 and 52 of Beswan and 1 & 12 of Nayabans Village- is pending.
- d. 2007: Suit No. 641/2007 in respect of kewats pending.
- e. 2009: Writ petition No. 45318/2009 -disposed off (disposal of matter by DM Aligarh).
- f. 2010: Writ No. 17280/2010 copy of order dated 15.03.2012.
- g. 2021: Writ Petition No. 4792/2021 order dated 07.07.2021- pending.

9. Heard learned Counsel appearing for the Petitioner and perused the material on record.

10. The Petitioner has filed only certain maps which do not indicate the existence of Beswan family. He has also filed certain articles which also do not throw any light on the existence of the Beswan family or that of the Petitioner having any right to succeed to the Princely State of Beswan family, if it existed. The judgments of the Privy Council only deals with the inter-party rights of one of the Petitioner and the applications filed by the Petitioner in this Court do not show any unimpeachable piece of evidence pointing out to any right of the Petitioner which would entitle the Petitioner



to any of the prayers made in the writ petition as has been demonstrated by the documents. The petition to say the least is exceedingly vague.

11. It is well settled that questions of title can be decided only in Civil Court and not in Writ Court. It is also well settled that while exercising jurisdiction under Article 226 of the Constitution of India, Courts do not enter into disputed questions of fact to enforce the right for which the writ is claimed. [Refer to: Sohan Lal vs. Union of India, 1957 SCR 738, Thansingh Nathmal vs. Supdt. of Taxes, 1964 SCC OnLine SC 13 and State of Rajasthan vs. Bhawani Singh, 1993 Supp (1) SCC 306].

12. In Shalini Shyam Shetty vs. Rajendra Shankar Patil, (2010) 8 SCC 329, the Apex Court held that disputed question of title should not be entertained in a writ petition. The relevant portion of the said judgment is reproduced as under:-

“53. The facts in Sohan Lal [AIR 1957 SC 529] are that Jagan Nath, a refugee from Pakistan, filed a writ petition in the High Court of Punjab against the Union of India and Sohan Lal alleging unauthorised eviction from his residence and praying for a direction for restoration of possession. The High Court directed Sohan Lal to restore possession to Jagan Nath. Challenging that order, Sohan Lal approached this Court. The Constitution Bench of this Court accepted the appeal and overturned the verdict of the High Court. In AIR para 7 at p. 532 of the judgment, the unanimous Constitution Bench speaking through Imam, J. laid down a few salutary principles which are worth remembering and are set out:

“7. The eviction of Jagan Nath was in contravention of the express provisions of Section 3 of the Public Premises (Eviction) Act. His eviction, therefore, was illegal. He was entitled to



be evicted in due course of law and a writ of mandamus could issue to or an order in the nature of mandamus could be made against the Union of India to restore possession of the property to Jagan Nath from which he had been evicted if the property was still in possession of the Union of India. The property in dispute, however, is in possession of the appellant. There is no evidence and no finding of the High Court that the appellant was in collusion with the Union of India or that he had knowledge that the eviction of Jagan Nath was illegal. Normally, a writ of mandamus does not issue to or an order in the nature of mandamus is not made against a private individual. Such an order is made against a person directing him to do some particular thing, specified in the order, which appertains to his office and is in the nature of a public duty (Halsbury's Laws of England, Vol. 11, Lord Simonds Edn., p. 84). If it had been proved that the Union of India and the appellant had colluded, and the transaction between them was merely colourable, entered into with a view to deprive Jagan Nath of his rights, jurisdiction to issue a writ to or make an order in the nature of mandamus against the appellant might be said to exist in a Court.”

These principles laid down by the Constitution Bench in Sohan Lal [AIR 1957 SC 529] have not been doubted so far.

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67. As a result of frequent interference by the Hon'ble High Court either under Article 226 or 227 of the Constitution with pending civil and at times criminal cases, the disposal of cases by the civil and criminal



courts gets further impeded and thus causing serious problems in the administration of justice. This Court hopes and trusts that in exercising its power either under Article 226 or 227, the Hon'ble High Court will follow the time honoured principles discussed above. Those principles have been formulated by this Court for ends of justice and the High Courts as the highest courts of justice within their jurisdiction will adhere to them strictly.”

13. This Court is of the opinion that the writ petition is completely misconceived. The claims raised by the Petitioner in the present Writ Petition cannot be gone into or adjudicated in a writ petition. The Petitioner has only filed some maps, historical accounts, which in the opinion of this Court does not indicate any existence of the Beswan family or existence of any right of the Petitioner. The judgments, extracts from Wikipedia report, documents of political integration of India, Instrument of Accession also do not substantiate the case of the Petitioner.

14. This Court is of the opinion that this Writ Petition raises pure questions of facts and the Petitioner has not been able to establish the area under the control of Beswan family and the right of the Petitioner succeeding to the Princely State of Beswan family. The Petitioner has to substantiate his contentions by taking appropriate proceedings, lead documentary and oral evidence and prove his case. Writ petition is not the remedy for the relief as claimed by the Petitioner.

15. Writ courts cannot enter into a field of investigation which is more appropriate for the Civil Court in a properly contested suit. Questions of fact which require determination, where rival claims of the parties have to be decided, which are purely factual, can be adjudicated in a properly instituted



suit and the proceedings under Article 226 of the Constitution of India is not the proper remedy. The present writ petition is nothing but an abuse of the process of law and complete waste of judicial time.

16. In view of the above, this Court is inclined to dismiss the writ petition by imposing costs of Rs.10,000/- on the Petitioner. Let the costs be deposited by the Petitioner with the *Armed Forces Battle Casualties Welfare Fund* within a period of four weeks from today.

17. The petition is dismissed along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

DECEMBER 18, 2023

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