

213 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-24743-2016 (O/M)

Date of decision : 25.07.2025

Virinder Singh and another

..... Petitioners

Versus

The Chief Engineer, PWD (B&R), Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Dinesh Ghai, Advocate
for the petitioners.

Mr. Harpreet Singh, AAG Punjab.

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HARSH BUNGER, J. (ORAL)

1. Prayer in this writ petition filed under Articles 226/227 of Constitution of India, inter alia, is for issuance of a writ in the nature of mandamus for directing respondents to provide alternative land of equivalent value in lieu of land measuring 0 Kanal – 17 Marla, comprised in Khewat No. 900, Khasra No. 358, on which unauthorized kothi of Tehsildar, Kharar, has been built without acquiring said land and paying compensation thereof.

2. The claim of the petitioner is that the father of the petitioner, namely, late Shri Piara Singh was granted land measuring 27 Kanal – 19 Marla, situated in village Kharar, District Ropar (presently District SAS Nagar) on lease by the Governor of Punjab and subsequently, Shri Piara Singh exercised his option to purchase said land, whereupon a certificate of transfer of land dated 26.03.1974 (Annexure P-2) was issued. It is

stated that Shri Piara Singh died on 01.05.2003. It is further stated that subsequently, the aforesaid land came to be shown in the name of petitioners in the revenue records.

3. It appears that the residence of Tehsildar, Kharar, stands constructed on a plot measuring 17 Marla and upon learning about the same, petitioners claim to have started corresponding with the authorities and sought compensation for the said land.

4. Since the grievance of the petitioners has not been addressed, this writ petition has been filed before this Court for the relief(s), as noticed hereinabove.

5. Per contra, learned State counsel has raised a preliminary objection that for the same relief, the petitioners had earlier approached this Court by filing a writ petition (CWP-6886-2014), which was dismissed as withdrawn, vide order dated 08.04.2016 (Annexure P-1), whereby liberty was granted to the petitioners to file a civil suit in accordance with law. It is submitted that instant writ petition is an abuse of process of law. It is next submitted that as far as area comprised in Khasra No. 358, measuring 0 Kanal – 17 Marla is concerned, same was not allotted to Shri Piara Singh (father of petitioner) and the said fact stands proved from Annexure R-3, attached with the reply filed on behalf of State, which is an application submitted by father of the petitioner, namely, Piara Singh, seeking allotment of rural cultivable land on the basis of possession since Rabi 1978; however, there is no mention of Khasra No. 358 therein. Accordingly, prayer has been made for dismissal of the instant civil writ petition.

6. Heard.

7. Apparently, the allotment of Khasra No. 358, measuring 0 Kanal – 17 Marla is disputed by the State and in order to substantiate the said claim, reliance has been placed upon Annexure R-3, attached with the reply filed by the State, which is an application submitted by the father of petitioner, namely, Shri Piara Singh, seeking allotment of rural cultivable land in his name on the basis of his possession since Rabi 1978; wherein as against Serial No. 7, Shri Piara Singh, while mentioning the detail of land, already owned by him, has referred to certain killa numbers, however, Killa No. 358 (0-17) is not mentioned therein. The relevant extracts of aforesaid application (Anexure R-3) reads as under:-

1.	A) Name of father's name of the Applicant : B) Age : C) Community and Caste	Piara Singh s/o Dharam Singh 60 Years Ramdasia (Schedule Caste)
2.	xxxxx	xxxxx
3.	A) Whether the applicant is from Schedule caste : B) Whether is cultivator or; C) Whether workman is Dependable on agriculture	Yes (Schedule caste certificate attached). Yes Yes
4 to 6	xxxxx	xxxxx
7.	A) Whether there is any land in the name of applicant, his wife or his dependent children. If yes, then how much, detail of that be given and alongwith this, the name of village and tehsil be given in which this land is situated.	

	B) Whether the applicant has purchased any nazool or Nakas Nikashi land from the revenue department or any other land from any other source on installment or any other method, if there is any, the detail of that be given and the name of village and tehsil be given in which this land is situated.	6-10 (0-9), 11 (1-8), 20 (1-4) 7/6 (2-11), 15 (7-12), 16 (7-12), 25 (2-9), = 23 K- 15 M (3 acre land situated at village Kharar, District Ropar.
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7.1 Below aforesaid application, there is also an affidavit of the petitioners' father, namely, Shri Piara Singh.

7.2 Learned counsel for petitioners has been unable to dispute the aforesaid factum of application (Annexure R-3) and also contents thereof.

8. Be that as it may, earlier also the petitioners had approached this Court for seeking same relief by filing a civil writ petition (CWP-6886-2014), which came to be decided by a coordinate Bench of this Court, vide order dated 08.04.2016 (Annexure P-1), the relevant extract of which reads as under :-

“ This petition is filed for seeking a mandamus directing the respondents to remove their possession from the portion of construction raised by them of Kothi of Tehsildar, Kharar on the land of the petitioner and/or in alternative prayed that the petitioner may be given the market price of land underneath the constructed area, which is alleged to have been encroached by the respondents.

After notice, the respondents filed reply and disputed the ownership of the petitioner over the land in question. Once the very basis of the petition is disputed, the only way out with the petitioner to file a suit for declaration and

injunction before the civil Court where he would prove his title over the land in question, which is alleged to have been allotted to him out of the evacuee land being a member of the Scheduled Caste/Backward Class.

Learned counsel for the petitioner has thus prayed for withdrawal of the petition in order to file a civil suit, in accordance with law.

Dismissed as withdrawn.

Liberty granted”.

8.1 A perusal of the above extracted order dated 08.04.2016 (Annexure P-1) would clearly show that at that point also, the ownership claim of the petitioners over the land in question was disputed by respondents and this Court was of the view that the petitioners would have to file a suit for declaration and injunction before the civil court to prove their title over the land in question, accordingly, liberty was granted to the petitioners to file a civil suit.

8.2 Evidently, no such recourse appears to have been taken by the petitioners, rather this writ petition has been filed by stating that the remedy of civil suit is going to consume a long period of time.

9. I have considered the matter and of the considered view that once the petitioners had approached this Court for the same relief and had withdrawn writ petition, so as to avail their remedy before the civil court and the said recourse having not been taken by the petitioners, filing of this writ petition is clearly an abuse of process of law and is liable to be deprecated.

10. Resultantly, this writ petition fails and same is accordingly dismissed.

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

(HARSH BUNGER)
JUDGE

25.07.2025

sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No