

Rampat Vs. Mangal

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Court : Punjab and Haryana

Decided On : Oct-22-2008

Reported in : (2009)156PLR59

Judge : Rajesh Bindal, J.

Appellant : Rampat

Respondent : Mangal

Disposition : Appeal dismissed

Judgement :

Rajesh Bindal, J.

1. This order will dispose of the set of appeals bearing RFA Nos. 1651, 1711, 1712, 1713, 1727, 1728, 1729, 1733 of 1988 arising out of common award of the learned court below. However, the facts have been noticed from RFA No. 1651. of 1988.

2. The appeal has been filed by the proprietors in Shamlat Patti Kishan Sahai, Bhangart Hasab Hisas Paimana Hakiat, all r/o Village Manesar, District Gurgaon claiming themselves to be the owners of the land in question against the award of the learned court below wherein application under Section 30 of the Land Acquisition Act 1894 (for short 'the Act') the amount of compensation has been

directed to be disbursed to the respondents the Dohlidars on the land in question.

3. Briefly, the facts are that vide notification dated March 22, 1985 the land in question forming part of Village Manesar was acquired by the State. The respondents filed application under Section 30 of the Act claiming absolute right of the payment of compensation on the plea that they are in occupation of the land in question as Dohlidars on account of Punarth. The dispute was referred to learned court below, who on consideration of the material placed on record by the parties accepted the plea of the respondents and held them entitled to the entire compensation payable on account of acquisition of land. It is this award of the learned court below which has been impugned by the appellants in present appeal.

4. The challenge to the impugned award was sought on the ground that Dohlidar is merely a tenant on the land. Dohli is granted for a specified purpose which are religious or charitable. Once the subject is over the Dohli will revert back to the owners of the land. The respondent have failed to prove that they are permanent Dohli's. The Dohli's don't become owners of the land.

5. On the other hand learned Counsel for the respondents referred to para 2 (a) of the application filed by them wherein it was specifically pleaded that Dohli was in fact a gift land to them by way of Punarth, which is a permanent kind of transfer of land. The factum of the Dohli being in the nature of Punarth is not even disputed by the appellants in the written statement filed before the court below. Referring to a Division Bench Judgment of this Court in (2007) 145 P.L.R. 176 titled as Dharam Vir v. Bahadur Singh and Anr. it was submitted that if the Dohli is in the nature of a gift a Dohlid-har may become owner thereof. It was opined that a Dohlidhar may become owner if the Dohli is in the nature of gift and at the time of creating Dohli no condition of the use of Dohli land for the benefits of the temple, mosque or shrine or other religious purpose was imposed. In case the Dohli is a gift the donee will become absolute owners on accepting the gift. Further reference was made to McDouie's Customary Law where it was opined a Dohli or a Pukhata land given to Punarth, as a religious offering, cannot be taken back. A Bhonda, land given for some service (Khidmat), is only held while the service is performed and

can be resumed if the holder ceases to perform the service.

6. In view of this position the submission is that the respondents in the present case have been admittedly granted the Dohli as Punarth, which cannot be taken back as the same was not for the purpose of any services to be performed. He further submitted that the appellants in the present case have not placed on record any material to dispute claim made by the respondents regarding the Dohli being a gift in the present case. Once that is the Dohli was not to revert back to the owners and the respondents being the absolute owners were entitled to the entire compensation payable on account of acquisition of land.

7. Heard learned Counsel and perused the record.

8. In Dharamvir's case (supra) a Division, while dealing with the various kinds of Dohli's opined that the 'dohli' tenure has to be held to be inalienable if 'dohli' is a grant or trust for religious purpose. On the other hand, if 'dohli' is a gift, restriction on alienability will not apply. Crucial issue for holding whether 'dohli' tenure was alienable or not will depend upon terms of 'dohli', express or implied and answered the question referred in the following terms:

(i) The 'dohli' tenure may be a rent free grant for the benefit of a temple, mosque or shrine or to a person for a religious purpose and the grant continues till the holder carries out the duties of his office and can be terminated on failure to carry out the said duties as held in Sewa Ram's case A.I.R. 1922 Lahore 126 (supra).

(ii) 'Dohlidar' may be a land owner qua his tenant in the situation mentioned in Baba Badri Dass 's case 1981 P.L.J. 447 (supra).

(iii) 'Dohlidar' may be an owner if 'dohli' is in the nature of gift and at the time of creating 'dohli' no condition for use of the dohli land for the benefit of a temple, mosque or shrine or other religious purpose is imposed, as noticed in judgments of this Court in Baba Badri Dass's case 1981 P.L.J. 447 (supra)

9. Perusal of the petition filed by the appellants under Section 30 of the Act shows that the claim was that their predecessors in the interest were in possession of the land under acquisition since long as Dohlidhars on account of Punarth. In fact the

land was gifted to the predecessors in interest of the respondents by the predecessors in interest of the owners, recorded in the Revenue records and after gifting away the land they had no right or interest in the property as the gift, was absolute and un-resumable in reply filed' to the petition filed by the respondents under Section 30 of the Act, the appellants admitted that the petitioner are Dohlidhars on land under the acquisition on account of Punarth. However, it was sought to be claimed that the Dohli was granted for carrying out certain services, which the respondents failed to carry out and accordingly the land had reverted back to the proprietors/owners.

10. Even in the evidence led the factum that the Dohli was a kind of Punarth was admitted though it was sought to be stated that the respondents were to carry out certain services in which they have failed. No terms of Dohli as such were produced on record to show that.

11. As per the Customary Law relied upon by the learned court below a Dohli as Pukhata given Punarth cannot be taken back. In the present case it is admitted by the appellants that the land was given Punarth. Once the land was given as absolute gift, in terms of the law laid down by this Court in Dharamvir's case (supra) the Dohlidhar become absolute owner thereof with no right of reversion with the owner of the land. Accordingly no illegality has been committed by the court below in accepting the claim of the respondents.

12. The appeals are accordingly dismissed.