

ITEM NO.104

COURT NO.7

SECTION X

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) NO(s). 91 OF 2001

RAM CHAND & ORS.

Petitioner(s)

VERSUS

STATE OF HARYANA & ORS.

Respondent(s)

(With appln(s) for clarification/modification of court's order
and impleading party and permission and permission to place addl.
documents on record and with office report))

WITH W.P.(C) NO. 88 of 2002

(With appln.(s) for ex-parte stay and stay)

WITH Contempt Petition (C) No. 103/2002 in WP(C) No. 91/2001

Date: 17/07/2008 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. MATHUR

HON'BLE MR. JUSTICE DALVEER BHANDARI

For Petitioner(s)

Mr. Pradeep Misra, Adv.
Mr. Manoj Kr. Sharma, Adv.
Dr. Krishan Singh Chauhan, Adv.

For Respondent(s)

Mr. Raj Kumar Gupta, Adv.
Mr. Manoj Dwivedi, Adv.
Mr. Kamendra Mishra, Adv.
Mr. G.V. Rao, Adv.

Mr. Anoop G. Choudhary, Sr. Adv.
Mr. Manjit Singh, AAG for Haryana
Mr. T.V. George, Adv.

Mr. Vimal Chandra S. Dave, Adv.

Mr. Ashok K. Srivastava, Adv. (NP)
Ms. Kavita Wadia, Adv. (NP)

UPON hearing counsel the Court made the following
ORDER

By order dated 8th February, 2000 this Court clearly observed
as under :-

"It is pursuant to this direction that the two Collectors
submitted a report dated 3rd February, 1989 to this Court.
In the said report it is inter alia stated that the Sub
Divisional Magistrate of
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both the Sub-divisions, namely, Khurja and Palwal met on
various dates and completed the work of conversion of the

areas from bighas etc.to kanals etc. plot wise as well as Khatawise This was done in respect of 384 acres in village Kanigarhi and approximately 128 acres in Shamsham Nagar. It was further stated in this report that some time was taken to handover the possession to the petitioners in the aforesaid two villages and the said petitioners were satisfied and had taken possession on 2nd February, 1989 of the land which was transferred from village Kanigarhi and Shamsham Nagar to Haryana. With regard to villagers of these two villages it was finally stated that there does not exist any dispute regarding possession qua them. The only grievance which is now outstanding according to Mr. Ranjit Kumar is that these villagers, whose names have now been entered in the Jamabandi in Haryana are entitled to get their Khata. We direct that the Collector of Faridabad to see that Khatas are given to the petitioners and to all the other persons who had become entitled to receive the same as a result of their names being added to the Jamabandi pursuant to the exercise undertaken by the Collectors of Bulandshahr and Faridabad and in furtherance to give effect to the said report dated 3rd February, 1989. This exercise will be done within eight weeks from today."

Now, a compliance report by way of affidavit has been

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filed on 20th May, 2008 by the Joint Secretary Revenue-I to the Government of Haryana wherein he has come out with almost a new story as under :-

"17. It has been decided with regard to this area that :-

i) This entire area will be entered in the names of the UP farmers both in the ownership column and cultivation column in the jamabandi of this area as per their share and possession.

ii) The orders have been issued to the Consolidation Department for carrying out the killabandi of this area. It

is further submitted that to complete the proceedings of Killabandi in an estate, it takes almost 23-24 months from the date of transfer of names of U.P. farmers in columns of ownership and possession by D.C., Faridabad, provided the title title of right-holders is not in dispute and no injunction is received from any court of law.

Khasra Nos.	Area	Ownership	Possession	Remarks
i) Musteel Nos. (in parts). 41,42,69,70, 71, 72, 73, 74, 110, 111, 112, 113 (as shown in the Map in white colour	159 + 5 = 164	Shamlat Deh)	Haryana Farmers	Actually on the ground it is in possessio n of UP farmers.
ii) Musteel Nos. (in parts). 44,45, 46, 47, 63, 64, 66 (as shown in Map in Orange Colour)	49	Haryana Farmers	Haryana Farmers	Actually in possession of UP farmers.
iii) Musteel Nos. (in parts) 47, 63, 43, 68, 75, 109 (shown in green colour in map)	31	Haryana Farmers	Haryana Farmers	-
Total area	244			

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19. That this entire area of 244 acres actually belongs to the farmers of Haryana as this area was consolidated by the Haryana authorities in the year 1966-67 and logically it could not have been transferred to Haryana from UP vide notification dated 24.8.1987. This happened because the actual area transferred was not measured and it was only a paper transfer. That is why the area does not tally on the ground. It is established from the Survey General reports submitted on directions of the Hon'ble Court that there is

overlapping of the area. This area, therefore, belongs to the Haryana farmers from the very beginning and it would be unfair to deprive them of this area without proper adjudication of the title.

20. That, however, in compliance of the orders dated 7.10.2007 directing the State of Haryana to implement the orders dated 8.2.2000 of the Hon'ble Supreme Court, State Government has decided to enter the names of the UP farmers in the possession column of the relevant Jamabandi according to their possession and shares subject to the final determination of their rights and title by the

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competent court in respect of this area except that the status quo with regard to 31 acres will be maintained as this area is in both ownership and possession of the Haryana farmers and rightly belongs to them.

This affidavit runs contrary to what this Court had stated as quoted above. Learned senior counsel appearing for the State of Haryana was asked to explain this. His explanation is not at all satisfactory. Either the order passed by this Court based on the report of the Collectors dated 3.2.1989 and the consequential action was false or the latest affidavit dated 20.5.2008 filed by the Joint Secretary Revenue-I to the Government of Haryana is wrong.

Learned counsel for the State of Haryana has not been able to reconcile between these two documents. He should explain the difference between these two statements and keep the Collector, Faridabad and the Joint Secretary Revenue-I, Government of Haryana (who has filed the affidavit dated 20.5.2008) present in Court alongwith all the relevant original record.

Put up in the 2nd week of August, 2008.

(Ajay Kr. Jain)
Court Master

(Vijay Dhawan)
Court Master