

SECTION IV B

Listed on 06.10.2015

IN THE SUPREME COURT OF INDIA Court No. 5  
CIVIL APPELLATE JURISDICTION Item No. 8

PETITIONS FOR SPECIAL LEAVE TO APPEAL(CIVIL)NOS. 26502 OF  
2010 AND 5137 OF 2011.

WITH PRAYER FOR INTERIM RELIEF

AND

INTERLOCUTORY APPLICATION NO. 2 in SLP(C) No. 5137 of  
2011

(Application for intervention)

Sher Singh Yadav & Anr. Etc. ...Petitioner(s)

Versus

State of Haryana & Ors. ...Respondent(s)

OFFICE REPORT

The matters above mentioned were listed before the Hon'ble Court on 02.07.2015 with office report dated 01.07.2015 when the Court was pleased to pass the following order:-

" Learned counsel appearing for the petitioners, criticizing the order passed by the learned Single Judge in writ petition which has received affirmation by the Division Bench in L.P.A. No.69 of 2005 (O&M), have submitted that the High Court has committed a grave error by coming to hold that Rule 5 of the Punjab Village Common Lands (Regulation) Rules, 1964, has been complied with. To substantiate the said plea, learned counsel for the petitioners have drawn our attention to paragraph 3 of the impugned order passed by the Division Bench. The said paragraph reads as follows:

"During the pendency of the appeal before this court, Gram Panchayat passed fresh resolution dated 25.10.1994, whereby it resolved to sell the land in open auction and to exchange the same with the land belonging to respondent No.3 to 8. Again the Gram Panchayat passed a resolution dated 30.5.1997, cancelling earlier resolution dated 25.10.1994 and reviving the resolution dated 29.6.1991. Consequently, the Gram Panchayat again agreed to exchange land with the land belonging to respondent No.3 to 8, copy of which was forwarded

to the Government for according necessary approval. Sanction was accorded vide order dated 15.9.1997."

It is urged by the learned counsel appearing for the petitioners that the Division Bench has also fallen into an error by not taking note of an earlier Division Bench decision rendered in L.P.A. No.239 of 1994 on 16<sup>th</sup> February, 1996, wherein it has been held thus:

"From the discussion made above, it is apparent that the order in question passed by the Govt. approving the resolution of the Gram Panchayat for exchange of its land was not passed after complying with the mandatory provisions of Rule 5 of 1964 Rules and therefore the matter is remitted to the Govt. to reconsider approval or otherwise of the resolution passed by the Gram Panchayat strictly in compliance with Rule 5 of 1964 Rules. While taking the matter in hand, the Govt. would hear the contesting parties. The Letters Patent Appeal is, thus, partly allowed giving liberty to the appellants to seek approval of the Govt. afresh in the manner fully indicated above. The result of the Letters Patent Appeal shall follow in Civil Writ Petition Nos.1991 of 1995 and 16487 of 1995."

Dr. Abhishek Manu Singhvi and Mr. Kapil Sibal, learned senior counsel appearing for the respondents, have urged that the purport of the order passed by the earlier Division Bench on February 16, 1996, has to be appropriately understood and when it is understood in the apposite context, it would be clear that there was a remit and it was confined to that particular resolution. It is urged by them that the Panchayat had passed a separate resolution dated 30<sup>th</sup> May, 1997, which has been the subject matter of the present litigation and hence, it has no nexus with the earlier resolution. That apart, it is also urged that the Governor, who is the competent authority, had approved the resolution on 15<sup>th</sup> September, 1997, and, therefore, if there had been any defect, the same has been taken care of. Quite apart from that, it is urged that

the original resolution dated 29<sup>th</sup> June, 1991, was never set aside by any court and, therefore, the Gram Panchayat was within its authority to pass a fresh resolution on 30<sup>th</sup> May, 1997, reiterating/reviving the said resolution, for it is the only requirement which has to be done in accordance with rules. It is their further submission that there is no prohibition to reiterate or revive a resolution having a similar nature or character, if it so held as a proposition of law, the Gram Panchayat would become defunct under the statute. In this context, the learned senior counsel appearing for the respondents have drawn our attention to the paragraphs 3B, 3C, 3D and 3G of the counter affidavit filed by the State Government before this Court to highlight that the mandate of the rule has been duly complied with.

It is apt to note submission advanced by the learned counsel for the petitioner in opposition to the submissions urged by the learned counsel for the respondents. It is urged that the petitioners have been unfairly treated by the Panchayat, as well as by the State Government, for the land that had been exchanged by the respondents in lieu of the land that belonged to the petitioners have been acquired by the State Government and no compensation has been paid. Additionally, it is put forth that a Gram Panchayat while passing a resolution under Rule 5, even if it complies with the adjectival law, yet it has to take into consideration the substantive interest of the inhabitants of the village and that having not been taken, the said resolution deserves to be struck down.

Learned counsel appearing for the State shall file the counter affidavit that was filed before the High Court. Needless to emphasize, learned counsel for the parties would be at liberty to address other legal issues, for we have recorded certain submissions for convenience.

Let the matter be listed for final disposal on 6<sup>th</sup> October, 2015, for further hearing."

It is submitted that Dr. Monika Gusain, Counsel for respondent (State of Haryana) has on 27.08.2015 filed True Copy of written statement in SLP (C) No. 26502/2011.

Copy of the same has been included in the paper books.

Service of show cause notice is complete in both the matters.

The matters along with application above mentioned are listed before the Hon'ble Court with this office report.

Dated this the 01st day of October, 2015.

ASSISTANT REGISTRAR

Copy to: Mr. J. P. Dhanda, Advocate.  
Dr. Kailash Chand, Advocate.  
Dr. Monika Gusain, Advocate.  
Mrs. Indu Sharma, Advocate.  
M/s. Karanjawala & Co. Advocates

ASSISTANT REGISTRAR

Rajesh/chetan