

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 927/2017

SHER SINGH YADAV AND ANR.

APPELLANT(S)

VERSUS

STATE OF HARYANA AND ORS.

RESPONDENT(S)

WITH  
CIVIL APPEAL NO. 928/2017

O R D E R

Application for intervention in Civil Appeal Nos. 928/2017 is allowed.

This litigation has chequered history but it may not be necessary to go into the facts in detail. Suffice it is to take note of the seminal facts that are required for the disposal of these appeals.

Respondent nos. 3 to 7 are developers and are engaged in the business of real estate development. They had purchased certain land in village Wazirabad, Tehsil and District Gurgaon(Haryana). Though a large chunk of land was purchased for colonization, few pockets of land in the said village belonging to the Gram Panchayat of village Wazirabad could not be taken by these respondents. In

these circumstances, attempt was made by them for exchange of the said land with the land which these respondents had in the nearby areas in the same village.

Rule 5 of the Punjab Village Common Lands (Regulation) Rules, 1964 (hereinafter referred to as 'the Rules') authorises the Gram Panchayat to exchange the village land. Resolution dated 29.06.1991 was passed by the Gram Panchayat for exchange of the land. Some residents of the village felt agitated by the aforesaid Resolution and they filed a civil suit in the Court of Additional Senior Sub-Judge, Gurgaon. Though, the Additional Senior Sub-Judge granted status quo on 16.02.1993, this order was vacated subsequently on 22.02.1993. That order was challenged by filing a writ petition by the petitioner. The learned Single Judge of the Punjab and Haryana High Court vide judgment dated 03.03.1994 came to the conclusion that the provisions of Rule 5 of the Rules were not complied with and, accordingly, the Resolution sanctioning the exchange of land was set aside and cancelled. Against this order, Letters Patent Appeal was filed by respondent nos. 3 to 7. The Division Bench concurred with the aforesaid findings of the learned Single Judge. At this juncture, we would like to reproduce the provisions of Rule 5 of the Rules which is to the following effect:

"5. Exchange of land: A Panchayat, if it is of opinion that it is necessary so to do for the benefit of the inhabitants of the village may, with the prior approval of the Government transfer any land in shamlat deh by exchange with the land of an equivalent value.

Provided that where the land is required in

connection with the Integrated Rural Development Programme sponsored by the Government, the Panchayat may with the approval of the Collector transfer any land in shamlat deh by exchange with the land of an equivalent value."

As per the aforesaid Rule, three conditions which are to be satisfied for exchange of land are:

- 1) Panchayat should form an opinion that such exchange would be for the benefit of the inhabitants of the village;
- 2) Prior approval of the Government for transfer of land in shamlat deh by exchange is required;
- 3) The Panchayat is also to be satisfied that the land which is to be received in exchange is of an equivalent value.

The Division Bench though took note of the contention of the appellants in the said Letters Patent Appeal that the land which was sought to be exchanged was of equivalent value. The Division Bench, at the same time, noted that the appellants herein (i.e. the villagers) had also filed objections to the said valuation. The Division Bench accordingly felt it necessary to remit the case to the Government to take fresh decision after complying with the provisions of Rule 5 of the Rules.

The Gram Panchayat passed fresh Resolution dated 25.10.1994 whereby it was resolved to sell the land in question by auction with a view to raise funds so that those funds could be utilized for setting up a community hall, public toilets, library, children's park etc. However, thereafter another Resolution was

passed on 30.05.1997 cancelling the aforesaid Resolution dated 25.10.1994 and reviving the earlier Resolution dated 29.06.1991 whereby the Panchayat had agreed to exchange the land with respondent nos. 3 to 7 herein. It was specifically recorded that exchange of land would benefit the inhabitants of the village. It was also recorded that the land which was agreed to be given by respondent nos. 3 to 7 in exchange of the land belonging to the Panchayat was of equivalent value. Even the Government gave its approval thereto on 15.09.1997. Thus, as far as the Gram Panchayat is concerned, decision was taken after satisfying all the three conditions mentioned in Rule 5. The aforesaid Resolution dated 30.05.1997 was challenged by the appellants herein by filing a writ petition, which was dismissed by the learned Single Judge. Letters Patent Appeal filed by the appellants has also been dismissed by the Division Bench vide impugned judgment dated 05.02.2010.

It may be stated at this juncture that the exchange of land had taken place in the meantime. Respondent no. 3 has made constructions on the said land which is developed along with other land that was available with respondent no. 3. After constructing the flats etc., they have also been sold to third parties. Therefore, the land which was given by the Panchayat in exchange has been fully utilized and is no more available. It may also be pertinent to mention that the land which was given to the Panchayat in exchange was subsequently acquired by the Government along with other adjacent land. Those acquisition proceedings had also attained finality. There is a dispute about of the quantum of compensation which is pending in this Court. Fact remains that the

entire area is now urbanized and Panchyat has ceased to exist. In its place, the Municipal Corporation, Gurgaon was formed and constituted in the year 2008. The compensation which is awarded by the High Court is received by the said Corporation. In case there is further escalation in the said compensation, the Corporation would be the beneficiary thereof. The appellants were only inhabitants on the land which belonged to the Panchyat.

In the light of the aforesaid developments, it is very clear that the land cannot be restored to the Panchayat as neither the land is available nor the Panchayat is in existence. The learned counsel for the appellants in both the appeals conceded this position and therefore, argued that the only relief which can be given is to compensate the appellants in case it is found that the decision to exchange the land was in violation of the law. The entire matter is examined from the aforesaid limited point of view.

As per the record, ingredients of Rule 5 of the Rules stood satisfied. The appellants, however, have challenged the aforesaid action on the ground that the land which was given by respondent nos. 3 to 7 in exchange of land which was given by the Panchayat was not of equal value. According to them, the land which belongs to the Panchayat and was given to respondent nos. 3 to 7 was much higher in value. However, we find that no material or documents were placed by the appellants either before the writ court or in appeal or even in this Court to substantiate the aforesaid allegation. In the absence of any such material it is difficult to countenance the submissions made by the appellants. On the other

hand, certain sale deeds were referred to by the respondents to show that valuation of two types of land was not at variance. Another pertinent aspect is that the government while according the approval put a condition that radar land be exchanged for radar land and residential land with residential land. They were also in close proximity.

For the aforesaid reasons, we do not find any merits in these appeals which are accordingly dismissed.

.....J.  
[A.K. SIKRI]

.....J.  
[ASHOK BHUSHAN]

NEW DELHI;  
FEBRUARY 21, 2017.

ITEM NO.105

COURT NO.8

SECTION IV

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 927/2017

SHER SINGH YADAV AND ANR.

Appellant(s)

VERSUS

STATE OF HARYANA AND ORS.

Respondent(s)

(with interim relief and office report)

WITH

C.A. No. 928/2017

(With appln.(s) for intervention and Office Report)

Date : 21/02/2017 These appeals were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.K. SIKRI  
HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Appellant(s) Mr. Vikramjit Banerjee, Sr. Adv.  
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For Respondent(s) Mr. Kapil Sibal, Sr. Adv.  
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Ms. Ruby Singh Ahuja, Adv.  
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Ms. Deepti Sarin, Adv.  
Ms. Aakanksha Munjhal, Adv.  
Mr. Karan Dev Chopra, Adv.  
Mr. Harsh Trivedi, Adv.  
Mr. Avishkar Singh, Adv.

For M/s. Karanjawala & Co.

Mr. Alok Sangwan, AAG  
Dr. Monika Gusain, Adv.

Ms. Indu Sharma, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

The appeals are dismissed in terms of the signed order.

Pending application(s), if any, stands disposed of  
accordingly.

(Ashwani Thakur)  
COURT MASTER

(Mala Kumari Sharma)  
COURT MASTER

(Signed order is placed on the file)