

Before Nirmaljit Kaur, J.

GRAM PANCHAYAT, VILLAGE NANAK PURA SANDHOLA, TEHSIL PEHOWA, DISTRICT KURUKSHETRA—Petitioner

versus

KULBIR SINGH AND OTHERS—Respondents

CR No.567 of 2019

August 16, 2019

Constitution of India, 1950—Art. 227—Code of Civil Procedure, 1908—O.39 Rls.1 and 2—Punjab Village Common Lands (Regulation) Rules, 1964—(as applicable to Haryana)—Community centre/janjghar/panchayat ghar—Whether approval of State required for construction—Held no.

Held that, Rule 3(2) (xxviii) of the 1964 Rules, which reads as under:-

“3. xxx xxx xxx

3(2) Subject to the approval of competent authority prescribed under the Act or these rules, the Panchayat may make use of the land in *shamilat deh* vested in it under the Act, either itself or through another for any one or more of the following purposes.

(i) to (xii) xx xx xx xxx

(xiii) Panchayat ghar or *Janjghar* or Village *Chaupal*

(xiv) to (xxvii) xxx xxx xxx

(xxviii) Any other kindred common purpose.

(Para 3)

Further held that, the proviso to the above Rule makes it mandatory for the Gram Panchayat to seek prior approval of the State qua Clauses (xix) to (xxviii). The argument that construction of the Community Centre falls under (xxviii) of Clause (2), which is ‘any other kindred common purpose’, on the face of it does not appear to be correct.

(Para 4)

Further held that, in Rule 3 Clause (2)(xxii), State of Punjab

added 'Community Centre' vide its Notification dated 18.07.1967 along with Panchayatghar or *Janjghar*, which do not require any prior approval. This clarifies that, in fact, this argument instead of helping the respondent-plaintiffs established that the Community Centre is the same as *Janjghar*. The very amendment relied on by the respondent-plaintiffs as above, in fact, leaves no room for doubt that the Community Centre comes under Clause (2)(xiii), i.e. Panchayat ghar or *Janjghar* or Village *Chaupal*.

(Para 4)

Abhinav Sood, Advocate for
Vikram Singh, Advocate
for the petitioner.

Maninder Singh Saini, Advocate
for respondent Nos.1 and 2.
D.K.Mittal, DAG, Haryana.

NIRMALJIT KAUR, J.

(1) The present revision petition is filed for setting aside the order dated 24.09.2018 passed by the Additional District Judge, Kurukshetra, vide which the appeal filed by respondent Nos.1 and 2 was allowed.

(2) Respondent Nos.1 and 2 filed a suit for permanent injunction against the petitioner, who is Gram Panchayat of village Nanak Pura Sandhola, Tehsil Pehowa District Kurukshetra to restrain it from constructing the Community Centre. Alongwith the said suit, an application was filed under Order 39 Rules 1 and 2 CPC, which was dismissed vide order dated 08.05.2018 by the Civil Judge (Junior Division), Pehowa. Respondent-plaintiffs filed appeal against the said order. The Additional District Judge, Kurukshetra ordered the status quo to be maintained vide order dated 30.05.2018. Petitioner-defendant in the suit filed a civil revision before this Court, which was disposed of with a direction to appellate Court to decide the matter expeditiously. Thereafter, the Additional District Judge, Kurukshetra, vide order dated 24.09.2018 restrained the Gram Panchayat for construction of the Community Centre on the suit land till decision of the suit in view of the provisions of Rule 3(2) of the Punjab Village Common Lands (Regulation) Rules, 1964 (as applicable to Haryana) (for brevity, 'the 1964 Rules'), which required prior approval of the State for the use of the land as mentioned under Clauses (xix) to

(xxviii). While restraining the petitioner, the Additional District Judge granted it liberty to construct the same after getting the approval from the Government by following the due procedure. The said order has been challenged through the present petition on two grounds, firstly, the proper procedure has been duly followed and the resolution, so passed, has been sent to the higher authorities and the process of construction has only started after due sanction of the grant by the Government and secondly, no prior approval was required as the construction of the Community Center falls under Clause 2(xiii) of Rule 3 of the 1964 Rules. In order to ascertain as to whether any approval of the State Government was required or not as also taking into consideration the nature of the litigation, the Coordinate Bench of this Court considered it appropriate to implead Secretary to the Government of Haryana, Department of School Education and Secretary to the Government of Haryana, Department of Rural Development and Panchayats as party-respondents to the present petition. Accordingly, the Secretary to the Government of Haryana, Department of School Education, Haryana and Secretary to the Government of Haryana, Department of Rural Development and Panchayats were impleaded as respondent Nos.9 and 10 respectively, who were directed to file their replies. The affidavit dated 18.07.2019 has been filed by the Principal Secretary to Government of Haryana, Development & Panchayat Department, Chandigarh. As per the said affidavit, the Community Centre being constructed by the Gram Panchayat is in category of Janjghar and thus, no prior approval of the State Government is required to be taken for construction of the same. The relevant part of the said affidavit reads as under:-

“It is further submitted that as per provision under clause (xiii) of sub-rule (2) of rule 3 of the Punjab Village Common Lands (Regulation) Rules 1964, Gram Panchayat is competent to take the use of its land for the purpose of Panchayat Ghar or Janjghar or village Chaupal. The Community Centre being constructed by the Gram Panchayat is in category of Janjghar and thus, no prior approval of the State Government is required to be taken for construction of Community Centre on its land by preparing it Land Utilization Plan.”

(3) The affidavit has also been filed by the Secretary to Government of Haryana, School Education Department, Chandigarh, stating therein that the ownership of the land is in the name of the

Gram Panchayat and since the ownership is not with the Education Department, no sanction was required from the Education Department. The matter should have rested there. However, learned counsel for the respondents went on to argue that stand of the respondent-State is incorrect as it was evident from the impugned order itself that construction of the Community Centre comes under the category of Rule 3(2)(xxviii), i.e. for multi purpose, for which prior approval of the Government is necessary. However, the argument of learned counsel for the respondents cannot be sustained in view of Rule 3(2)(xxviii) of the 1964 Rules, which reads as under:-

“3. xxx xxx xxx

3(2) Subject to the approval of competent authority prescribed under the Act or these rules, the Panchayat may make use of the land in shamilat deh vested in it under the Act, either itself or through another for any one or more of the following purposes:-

(i) to (xii) xxx xxx xxx

(xiii) Panchayat ghar or Janjghar or Village Chaupal.

(xiv) to (xxvii) xxx xxx xxx

(xxviii) Any other kindred common purpose.”

(4) The proviso to the above Rule makes it mandatory for the Gram Panchayat to seek prior approval of the State qua Clauses (xix) to (xxviii). The argument that construction of the Community Centre falls under (xxviii) of Clause (2), which is 'any other kindred common purpose', on the face of it does not appear to be correct. It is evident from the affidavit, as reproduced above, that the Community Centre is in the category of Janjghar. The BDPO too has stated that presently most of the Community Centres are used as Janjghars. The argument of learned counsel for the respondents that the Community Centre was subsequently added in the Rules 1964 for Punjab, whereas there was no such amendment in the 1964 Rules, as applicable to Haryana, in fact, goes to show that the Community Centre is to be read in the same Clause. In Rule 3 Clause (2)(xxii), State of Punjab added 'Community Centre' vide its Notification dated 18.07.1967 alongwith Panchayatghar or Janjghar, which do not require any prior approval. This clarifies that, in fact, this argument instead of helping the respondent-plaintiffs establishes that the Community Centre is the same as Janjghar. The very amendment relied on by the respondent-plaintiffs as above, in

fact, leaves no room for doubt that the Community Centre comes under Clause (2)(xiii), i.e. Panchayat ghar or Janjghar or Village Chaupal.

(5) In view of the above, revision petition is allowed. The order dated 24.09.2018 is set aside with liberty to the petitioner to construct the Community Centre. However, the construction shall be subject to outcome of the suit.

Shubreet Kaur