**NOTE FOR PAD FOR STARRED ASSEMBLY QUESTION NO. 47.**

 Several landless persons, who needed to be rehabilitated, were allotted uncultivable lands under the East Punjab Utilization of Lands Act, 1949 and the Punjab Village Common Lands (Regulation) Act, 1953. After expiry of lease period, these lessees remained in possession of the lands upto 24.09.1986 and thereafter they were evicted at different point of time due to court orders. The Hon’ble Supreme Court on 24.09.1986, in one of such matter, ‘Bodhni Chaman Ex-servicemen Cooperative Tenants Farming Society Ltd. etc. versus State of Haryana and others’, while dismissing the appeal against eviction orders, had observed that Government may allot another piece of land elsewhere to the petitioners considering their pitiable condition. However, the necessary rehabilitation measures could not be undertaken by the Government at that point of time.

2. Rule 6A was inserted in the PVCL Rules vide notification dated 03.01.2008 which reads as under:-

*Lease of land in shamilat deh to lessees of East Punjab Utilization of Lands Act, 1949.- Notwithstanding anything contained in these rules, the Gram Panchayat may, with prior approval of the State Government, lease out its land for cultivation purposes for a period upto 99 years to the original lessees of East Punjab Utilization of Lands Act, 1949, or to their legal heirs, who are in cultivating possession of such land:*

 *Provided that the terms and conditions on which the land may be leased out shall be as under:-*

1. *the lessees shall make one time payment of Rs.2500/- per acre for settlement of the period for which the land remained under their use and unauthorized occupation;*

*(ii) the lessees shall pay Rs.1000/- per acre per year as lease money with 20% increase after every ten years;*

1. *the lessees shall have no right to sub lease the land;*

 *(iv) the eligible persons will have to execute a lease deed within one year from the date of notification of these rules*

3. Thereafter, the aforestated Rule was substituted vide notification dated 29.11.2010 providing therein that land could be leased out to the original lessee who are in cultivating possession of such lands or of any other land in the same village. The substituted rule reads as under:-

 *Lease of land in shamilat deh to lessees of East Punjab Utilization of Lands Act, 1949.- Notwithstanding anything contained in these rules, the Gram Panchayat may, with prior approval of the State Government, lease out its land for cultivation purposes for a period upto 99 years to the original lessees of East Punjab Utilization of Lands Act, 1949, or to their legal heirs, who are in cultivating possession of such land or of any other land in the same village upto a maximum limit of original allotted land:*

 *Provided that the terms and conditions on which the land may be leased out shall be as under:-*

1. *the lessees shall make one time payment of Rs.2500/- per acre for settlement of the period for which the land remained under their use and unauthorized occupation;*
2. *the lessees shall pay Rs.1000/- per acre per year as lease money with 20% increase after every ten years;*

-2-

1. *the lessees shall have no right to sub lease the land;*

*(iv) the eligible persons will have to submit an application to the concerned Gram Panchayat with a copy to the Deputy Commissioner, within six months from the date of notification of these rules. After the approval is granted by the State Government, the Gram Panchayat may execute a lease deed within a maximum period of six months.*

4. Thereafter, Section 5A was inserted in the PVCL Act vide notification dated 09.10.2013, which provides as under:-

5A *(1) A panchayat may, gift, sell, exchange or lease the land in shamilat deh vested in it under this Act to such persons including members of Schedules Castes and Backward Classes on such terms and conditions, as may be prescribed:*

 *Provided that the lease of land by way of allotment for cultivation purposes may be given for a period upto 99 years only to a person who does not own any land for agriculture on the date of the commencement of this Act and has been the original lessee either under the provisions of the East Punjab Utilisation of Lands Act, 1949 (Punjab Act 38 of 1949) or under the provisions of the Punjab Village Common Lands (Regulation) Act, 1953, for a period not less than seven years and has remained in continuous cultivating possession of the leased land upto the 24th September, 1986, with corresponding entries in the revenue record:*

 *Provided further that the lessee shall make one time payment, as may be prescribed, for the period he remained in cultivating possession without making payment of lease money.*

 *Explanation.- “Person” for the purpose of this sub-section shall include legal heirs of the original allottee.*

*(2) The gift, sale, exchange or lease of the land in shamilat deh already made shall be deemed to have been made under sub-section (1)*

5. Pursuant to the aforestated provision in the Act, Rule 6A was further substituted vide notification dated 13.12.2013, which reads as under:-

*6A(1) Notwithstanding anything contained in these rules, the Gram Panchayat may, with prior approval of the Assistant Collector of the first grade, lease out its land by way of allotment for cultivation purposes initially for a period upto 33 years further renewable for the same period twice, to a person who does not own any land for agriculture on the date of commencement of the Act and has been the original lessee either under the provisions of the East Punjab Utilization of Lands Act, 1949 (Punjab Act 38 of 1949) or under the provisions of the Punjab Village Common Lands (Regulation) Act, 1953 or his legal heirs, for a period not less than seven years and has remained in continuous cultivating possession of the leased land upto 24th September, 1986 with corresponding entries in the revenue record, subject to the following terms and conditions:-*

1. *the maximum lease period including the renewals shall not exceed 99 years;*
2. *the legal heirs of the original lessee shall be granted the lease of the land to the extent of their share in the originally allotted land. The share shall be determined by the revenue officials and countersigned by the concerned Sub-Divisional Officer (Civil);*
3. *maximum area of land in shamilat deh to be leased out to an original lessee or his legal heirs shall not exceed ten acres or the area originally allotted, whichever is less;*
4. *the lessee shall have no right to sub-lease the land;*
5. *the lessee pay one time payment at the rate of rupees two thousand per acre per year for the period he remained in cultivating possession without making payment of lease money. However, the lessees who have already deposited the penalty amount in compliance of the orders passed by competent*

-3-

*authority, they shall not be liable for payment of one time settlement amount for the relevant period;*

1. *the lessee shall pay the lease money at the rate of rupees two thousand per acre per year with ten percent increase after every five years.*
2. *In case of violation of any conditions as specified in sub rule(1) above and the terms and conditions of the lease deed, the possession of the land shall revert back to the Gram Panchayat.*

*(3) The original lessee or his legal heirs may submit an application in the prescribed proforma alongwith the copies of revenue record in support of their claim, to the concerned Gram Panchayat with a copy to concerned the Block Development and Panchayat Officer, within a period of six months from the date of notification of these rules. A separate register shall be maintained by the Block Development and Panchayat Officer and copy of application so received shall be entered immediately. The Block Development and Panchayat Officer after making entry shall forward the copy of the application to the concerned Gram Panchayat for necessary action.*

*(4) The Gram Panchayat shall consider the application and pass a resolution with regard to the lease of land within a period of thirty days. The Block Development and Panchayat Officer shall forward a copy of the resolution so passed alongwith the application and documents attached by the applicant to the Assistant Collector of the first grade for approval and shall also retain a copy of the same with him. Thereafter, the Assistant Collector of the first grade shall pass appropriate order within a period of sixty days.*

*(5) The Gram Panchayat shall execute a lease deed in favour of the original lessee or his legal heirs, within a period of one month from the date of approval accorded by the Assistant Collector of the first grade*

6. In view of the advice tendered by the Law Department & the decision taken by the Council of Ministers, instructions dated 03.03.2014 was issued to all the field functionaries stating therein that adequate care and caution should be taken while leasing out the land in shamilat deh under this Rule so that the land assigned for common specific purposes, as per consolidation and left for village charand, pond and jangalat etc is not leased out/allotted. A proforma was also circulated for inviting applications under this rule.

7. The aforestated provisions have been challenged by various villagers of Kurukshetra District by filing CWP No.8561/2014, 8510/2014, 8372/2014, 8560/2014 & 6874/2014 on the following grounds:-

1. Rule 6 of the rules provides that shamilat land will be given on lease by conducting open auction whereas in under rule 6A the lands would be allotted.
2. Rule 6 provides for renewal of a lease upon an application made by the lessee before the expiry of the lease period and such renewal shall be for a period not exceeding two years, whereas in the present case lease is being renewed for a period of 33 years.
3. Rule 6A has been inserted for extraneous consideration to give ownership rights to Panchayat land to such unauthorized occupants which is against the principle of natural justice.
4. Allotment of land shall geopardize the common purposes of the village and there will be no land for the common use of the village.

8. The Hon’ble High Court while issuing notice to the State Government has restrained the State Government for allotting any piece of land in terms of rule 6A of the PVCL Rules, 1964 vide its order dated 03.07.2014 and thereafter, vide order dated 28.04.2016. The writ petition is fixed for hearing on 08.12.2023.

 -4-

9. There is a proposal under consideration of Government to bring about an amendment in the Haryana Village Common Lands (Regulations) Act, 1961. A Committee consisting of the Chief Minister as Chairperson, Deputy Chief Minister, Urban Local Bodies Minister and Development & Panchayats Minister besides officers has been consitituted and the proposal would be finalized on the basis of the report of the Committee after it is submitted. As per information provided by the District Administration, 1350 lessees in 22 villages of Guhla and Siwan Block are in possession of land in shamilat deh measuring 4285.5 Acre.

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2- iatkc xzke “kkeykr Hkwfe fu;ekoyh esa vf/klwpuk fnukad 03-01-2008 }kjk fu;e 6d tksM+k x;k tks fuEu izdkj gSS%&

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(ii) iV~Vsnkj 1000@& :i;s izfr ,dM+ izfr o’kZ izR;sd nl o’kZ ds ckn 20 izfr”kr c<+ksrjh ds lkFk iV~~Vk /kujkf”k ds :i esa Hkqxrku djsaxs(

(iii) iV~Vsnkjksa dks Hkwfe mi&iV~Vs ij nsus dk dksbZ vf/kdkjh ugha gksxk(

(iv) ik= O;fDr;ksa dks bu fu;eksa dh vf/klwpuk dh frfFk ls ,d o’kZ ds Hkhrj iV~Vk foys[k fu’ikfnr djsaxsAÞA

3- rRi”pkr mDr fu;e dks vf/klwpuk fnukad 29-11-2010 }kjk izfrLFkkfir fd;k x;k ftlesa ;g izko/kku fd;k x;k Fkk fd ewy iV~Vsnkj tks ,slh Hkwfe;ksa;k mlh xkao dh vU; Hkwfe ij dk”rk dCts esa gS dks ;g Hkwfe iV~Vs ij nh tk ldrh gSA izfrLFkkfir fu;e fuEukuqlkj gS%&

iwohZ iatkc Hkw&mi;ksx vf/kfu;e] 1949 ds v/khu iV~Vsnkjksa dks “kkeykr nsg esa Hkwfe dks iV~Vs ij nsukA /kkjk 5 rFkk 15¼2½¼p½-& bu fu;eksa esa vUrfoZ’V fdlh ckr ds gksrs gq, Hkh] xzke iapk;r] jkT; ljdkj ds iwoZ vuqeksnu ls] iwohZ iatkc Hkw&mi;ksx vf/kfu;e] 1949 ¼1949 dk iwohZ iatkc vf/kfu;e 38½ ds v/khu ewy iV~Vsnkjksa ;k muds fof/kd okfjl] tks mlh xkao esa ,slh Hkwfe ;k fdlh vU; Hkwfe ds yxkrkj [ksrhgj dCts esa gS] dks 99 o’kZ rd dh vof/k ds fy, vf/kdre ewy vkcafVr dh xbZ Hkwfe dh vf/kdre lhek rd [ksrhckM+h ds iz;kstuksa gsrq viuh Hkwfe iV~Vs ij ns ldrh gS%

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(ii) iV~Vsnkj 1000@& :i;s izfr ,dM+ izfr o’kZ izR;sd nl o’kZ ds ckn 20 izfr”kr c<+ksrjh ds lkFk iV~~Vk /kujkf”k ds :i esa Hkqxrku djsaxs(

(iii) iV~Vsnkjksa dks Hkwfe mi&iV~Vs ij nsus dk dksbZ vf/kdkjh ugha gksxk(

(iv) ik= O;fDr;ksa dks bu fu;eksa dh vf/klwpuk dh frfFk ls Ng ekl ds Hkhrj mik;qDr dks ,d izfr ds lkFk lEcfU/kr xzke iapk;r dks vkosnu izLrqr djuk gksxkA jkT; ljdkj }kjk vuqeksnu iznku djus ds i”pkr~] xzke iapk;r vf/kdre Ng ekl dh vof/k ds Hkhrj iV~Vk foys[k fu’ikfnr dj ldrh gSAÞA

4- rRi”pkr vf/klwpuk fnukad 09-10-2013 }kjk iatkc xzke “kkeykr Hkwfe vf/kfu;e] 1961 esa /kkjk 5d tksM+h xbZ Fkh] tks fuEu vuqlkj gS%&

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5- vf/kfu;e ds mDr izko/kku ds vuq:i fu;e 6d dks vf/klwpuk fnukad 13-12-2013 }kjk vkxs izfrLFkkfir fd;k x;k Fkk tks fuEu vuqlkj gS%&

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1. uohdj.k lfgr vf/kdre iV~Vk vof/k fuU;kuos o’kZ ls vf/kd ugha gksxhA
2. ewy iV~Vsnkj ds fof/k okfjlksa dks ewy vkcafVr Hkwfe esa muds fgLls dh lhek rd gh Hkwfe dk iVVk iznku fd;k tk,xkA fgLlk jktLo deZpkfj;ksa }kjk fu/kkZfjr fd;k tk,xk rFkk lEcfU/kr mie.My vf/kdkjh ¼ukxfjd½ }kjk izfr gLrk{kfjr fd;k tk,xkA
3. ewy vkcafVrh ;k mlds fof/kd okfjlksa dks “kkeykr nsg esa Hkwfe dk vf/kdre {ks= nl ,dM ;k ewy vkcafVr {ks=] tks Hkh de gks] ls vf/kd ugha gksxkA
4. iV~Vsnkj dks Hkwfe mi&iVVs ij nsus dk vf/kdkj ugha gksxkA
5. iV~Vsnkj] ftl vof/k ds fy, og fcuk iVVk jkf”k vnk fd, [ksrhgj dCts esa jgk gS] ds fy, nks gtkj :Ik;s izfr ,dM izfr o’kZ dh nj ls ,d eq”r jkf”k vnk djsxkA rFkkfi iV~Vsnkj] tks l{ke izf/kdkjh }kjk ikfjr vkns”kksa dh vuqikyuk esa “kkfLr] jkf”k igys tek djok pqdk gS rks og lEcfU/kr vof/k ds fy, ,d eq”r fuiVku jkf”k dk Hkqxrku djus ds fy, nk;h ugh gksxkA
6. iV~Vsnkj] izR;sd ikWap o’kZ ds ckn nl izfr”kr c<ksrjh ds lkFk dh nj ls iV~Vk /ku jkf”k dk Hkqxrku djsxkA

(2) mijksDr mi&fu;e 1 esa ;Fkk fofufnZ’V fdUgh “krksZa ;k iV~Vk foys[k ds fucU/ku rFkk “krksZa ds mYy?kau dh n”kk esa Hkwfe dk dCtk okfil xzke iapk;r dks pyk tk,xkA

(3) ewy iV~Vsnkj ;k mlds fof/kd okfjl vius nkos ds leFkZu esa jktLo fjdkMZ dh izfr;ksa lfgr fofgr izksQkekZ esa vkosnu i= lacaf/kr [k.M fodkl ,oa iapk;r vf/kdkjh dks izfr lfgr lEcfU/kr xzke iapk;r dks bu fu;eksa dh vf/klwpuk dh frfFk ls Ng ekl dh vof/k ds Hkhrj izLrqr dj ldrk gSA [k.M fodkl ,oa iapk;r vf/kdkjh }kjk vyx ls jftLVj j[kk tk;sxk rFkk bl izdkj izkIr vkosnu dh izfr rqjUr bUnzkt dh tk,xhA bUnzkt djus ds ckn [k.M fodkl ,oa iapk;r vf/kdkjh vkosnu dh izfr vko”;d dkjZokbZ gsrq lEcfU/kr xzke iapk;r dks HkstsxkA

(4) xzke iapk;r vkosnu ij fopkj djsxh rFkk rhl fnu dh vof/k ds Hkhrj Hkwfe dks iV~Vs ij nsus ds lEcU/k esa izLrko ikl djsxhA [k.M fodkl ,oa iapk;r vf/kdkjh vkosnu rFkk vkosnd }kjk layXu nLrkostksa lfgr bl izdkj ikfjr izLrko dh izfr lgk;d dyDVj izFke Js.kh dks vuqeksnu ds fy, izsf’kr djsxk rFkk mldh ,d izfr vius ikl j[ksxkA rRi'pkr~] lgk;d dyDVj izFke Js.kh lkB fnu dh vof/k ds vUnj mfpr vkns”k ikfjr djsxkA

(5) xzke iapk;r] lgk;d dyDVj izFke Js.kh }kjk iznku fd, x, vuqeksnu dh frfFk ls ,d ekl dh vof/k ds Hkhrj ewy iVk/kkjh ;k mlds fof/kd okfjlksa ds i{k esa iV~Vk foys[k fu"ikfnr djsxhA

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6- fof/k foHkkx }kjk nh xbZ lykg vkSj ea=hifj’kn }kjk fy, x, fu.kZ; dks /;ku esa j[krs gq, lHkh {ks=h; inkf/kdkfj;ksa dks fgnk;r fnukad 03-03-2014 tkjh dh xbZ Fkh ftlesa dgk x;k Fkk fd bl fu;e ds rgr “kkeykr Hkwfe dks iV~Vs ij nsrs le; i;kZIr fuxjkuh ,oa lko/kkuh cjrh tkuh pkfg, rkfd pdcanh ds vuqlkj vkSj xkao ds pjkUn] rkykc rFkk taxykr bR;kfn lka>s fof”k’V mn~~ns”;ksa ds fy, fpfUgr Hkwfe dks iV~Vk@vkcaVu u fd;k tk,A bl fu;e ds rgr vkosnu vkeaf=r djus ds fy, ,d izksQkekZ Hkh ifjpkfyr fd;k x;k FkkA

7- mDr izko/kkuksa dks dq:{ks= ds fofHkUu xzkeh.kksa }kjk flfoy ;kfpdk ua0 8561@2014] 8510@2014] 8372@2014] 8560@2014 rFkk 6874@2014 nk;j djds fuEufyf[kr vk/kkj ij pqukSrh nh xbZ%&

(i) fu;ekoyh ds fu;e 6 esa ;g izko/kku gS fd [kqyh uhykeh djds “kkeykr Hkwfe iV~~Vs ij nh tk,xh tcfd fu;e 6d ds varxZr Hkwfe vkcafVr dh tk,xhA

(ii) fu;e 6 esa iV~Vsnkj }kjk iV~~Vs dh vof/k lekIr gksus ls iwoZ fd, x, vkosnu ij iV~Vs ds uohdj.k dk izko/kku gS vkSj ,slk uohdj.k nks o’kZ ls vf/kd dh vof/k ds fy, ugha gksxk] tcfd orZeku ekeys esa iV~Vs dk uohdj.k 33 o’kZ dh vof/k ds fy, fd;k tk jgk gSA

(iii) ,sls vuf/kd`r dCtk/kkfj;ksa dks iapk;r Hkwfe dk ekfydkuk gd nsus ds fy, vlaxr dkj.kksa ds fy, fu;e 6d tksM+k x;k gS tks izkd`frd U;k; ds fl)kUr ds fo:) gSA

(iv) Hkwfe ds vkcaVu ls xkao ds lkekU; mn~ns”;ksa dks tksf[ke gksxk vkSj xkao ds lkekU; mi;ksx ds fy, Hkwfe ugha cpsxhA

8- jkT; ljdkj dks uksfVl tkjh djrs gq, ekuuh; mPp us vius vkns”k fnukad 03-07-2014 rFkk mlds i”pkr fnukad 28-04-2016 }kjk jkT; ljdkj dks iatkc xzke “kkeykr Hkwfe fu;ekoyh] 1964 ds fu;e 6d ds vuqlkj Hkwfe ds fdlh Hkh VqdM+s dks vkcafVr djus ls jksd fn;k gSA flfoy ;kfpdk ij lquokbZ ds fy, 08-12-2023 dh rkjh[k fuf”pr dh xbZ gSA

9- vc bu O;fDr;ksa dks ,slh Hkwfe dh fcØh ds fy, gfj;k.kk xzke “kkeykr Hkwfe vf/kfu;e] 1961 esa izko/kku djus ds fy, ,d izLrko gS A eq[;ea=h dh v/;{krk esa vf/kdkjhx.k ds vykok mi eq[;eU=h “kgjh LFkkuh; fudk; eU=h rFkk fodkl ,oa iapk;r eU=h dh ,d desVh dk xBu fd;k x;k gS vkSj desVh dh fjiksVZ] izLrqr gksus ds i”pkr~] blds vk/kkj ij izLrko dks vfUre :Ik fn;k tk,xkA ftyk iz”kklu }kjk miyC/k djkbZ xbZ lwpuk ds vuqlkj] xqgyk vkSj lhou [k.M ds 22 xkaoksa esa 1350 iV~Vsnkjksa dk 4285-5 ,dM+ “kkeykr nsg dh Hkwfe ij dCtk gSA