

**HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.14121 of 1989 (O&M)

Date of Decision: 08.01.2015

Gram Panchayat Khunde Halal

... Petitioner

VS.

Commissioner, Ferozepur Division,
Ferozepur & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE RAJ MOHAN SINGH

1. Whether Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporters or not?

3. Whether the judgment should be reported in the Digest?

Present: Mr. Anurag Chopra, Advocate for the petitioner

Mr. Rajender Goyal, Addl. AG Punjab

Mr. Randhir Singh, Advocate for respondent No.2 & 3

SURYA KANT, J. (Oral)

(1) This order shall dispose of CWP No.6812 &14121 of 1989 as the point in issue is common. For brevity, the facts are taken from CWP No.14121 of 1989.

(2) The petitioner-Gram Panchayat impugns the order dated 21.01.1988 and 08.03.1989 (Annexure P1 & P2) passed by the Collector and the Appellate Authority, respectively whereby its petition under Section 4&5 of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 read with Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 as

well as the appeal seeking eviction of the private respondents from the land in dispute, have been dismissed.

(3) Both the authorities have rejected the petitioner-Gram Panchayat's claim after observing that there was an exchange of land between the private respondents and the Gram Panchayat and pursuant thereto, the petitioner took possession of the subject-land whereas in one of the jamabandis, there continued to be a stray entry of ownership in favour of the Gram Panchayat though it had given that land to the private respondents by way of exchange. The eviction petition was based upon the said stray entry only even when in the subsequent jamabandi, the necessary correction was reflected.

(4) In the light of the above-stated finding of fact which, despite his earnest efforts, learned counsel for the Gram Panchayat has not been able to dispel, it appears to us that the private respondents cannot be held to be 'unauthorized occupants' of the subject land. In fact, in view of the exchange of land, the respondents are owners-in-possession of the said land which they have got in lieu of the land given by them to the Gram Panchayat. The aforesaid finding of fact thus does not call for any interference by this Court in exercise of writ jurisdiction.

(5) However, this order shall not preclude the Gram Panchayat to initiate fresh eviction proceedings against any person if it is found, on the basis of verification/demarcation of the

area, that the respondent(s) or for that matter, any other person(s) is/are in possession of the land in excess to what was given in exchange.

(6) With liberty afore-mentioned, the writ petition stands dismissed.

(Surya Kant)
Judge

08.01.2015
vishal shonkar

(Raj Mohan Singh)
Judge