

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

CWP No.4414 of 1992 (O&M)

Date of Decision: 02.02.2015

Bhale Ram (through LRs)

... Petitioner

VS.

Commissioner, Hissar Division, Hissar & 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. Bhoop Singh, Advocate for the petitioner

Mr. RKS Brar, Addl. AG Haryana

Mr. Ashish Gupta, Advocate for Gram Panchayat

SURYA KANT, J. (Oral)

(1) The petitioner filed a petition under Section 13-A of the Punjab Village Common Lands (Regulation) Act, 1961 seeking declaration of his title in respect of the land measuring 10 kanal 16 marla fully described in the headnote of the petition. The Assistant Collector First Grade Narwana vide order dated 28.04.1989 (Annexure P1) dismissed the above-stated petition after answering Issue No.1 against the petitioner on the ground that no evidence regarding possession prior to 2002-2003 BK i.e. 1945-46 was brought on record. The appeal preferred by the petitioner was also dismissed by the Collector, Jind vide order dated 26.02.1990 on the solitary ground that he had failed to prove that his possession was prior to 2002-03 BK i.e. 1945-46 and that he should have proved his

possession by producing the jamabandi of the years prior to 1945-46. That very reasoning found favour with the Commissioner, Hisar Division also who vide order dated 09.12.1991 dismissed the petitioner's revision petition.

(2) Aggrieved the petitioner approached this Court and vide order dated 03.04.1992, his dispossession was stayed.

(3) We have heard learned counsel for the parties and gone through the record.

(4) It may be seen from the orders passed by this Court from time to time that the learned State counsel was directed to produce jamabandis for the period prior to 1945-46.

(5) Mr. RKS Brar, learned Addl. AG Haryana has produced the jamabandi for the year 1998-99 BK i.e. 1941-42. The original entries in the jamabandi are in Urdu language though learned State counsel has produced its translated version also. It is, however, difficult to find out from the jamabandis produced today as to whether or not the land mentioned therein is the same which is the subject matter of dispute in the instant case. Nonetheless, it is evident that the revenue record of the period prior to 1945-46 appears to be available with the authorities. In this view of the matter, we are of the considered view that it would be in the interest of justice to provide at least one opportunity to the petitioner as well as the Gram Panchayat to lead additional evidence in support of their respective claim and thereafter only

decide the issue as to whether the subject-land vests in the Gram Panchayat or it stands exempted under Section 4(3)(ii) of the 1961 Act.

(6) For the reasons afore-stated, we allow the writ petition; set aside the impugned orders and remit the case to the SDO(Civil)-cum-Collector, Narwana to afford not more than two opportunities each to the petitioner as well as the Gram Panchayat to enable them to lead additional evidence, if need be, mainly comprising the revenue record of the years prior to 1945-46 and thereafter answer the above-stated question in accordance with the law.

(7) Needless to say that the onus to prove the first issue already lies on the petitioner and he will have to prove the same.

(8) The Collector shall decide the matter within a period of six months from the date of first appearance of the parties who are directed to appear before the Collector on 09.03.2015. *Status quo re*: possession shall be maintained till the matter is decided afresh by the Collector.

(9) Ordered accordingly. **Dasti**.

(Surya Kant)
Judge

02.02.2015
vishal shonkar

(Raj Mohan Singh)
Judge