

CWP No. 9343 of 1996

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

CWP No. 9343 of 1996 (O&M)

Date of decision: 28.04.2015

Teja Ram and others

..... Petitioners

Versus

State of Haryana and others

..... Respondents

**CORAM : HON'BLE MR.JUSTICE RAJIVE BHALLA
HON'BLE MR. JUSTICE AMOL RATTAN SINGH**

Present:- Mr. Rajesh Goyal, Advocate
for the petitioners.

Ms. Tanisha Peshawaria, DAG, Haryana
respondent No. 1 and 2.

Mr. Arvind Singh, Advocate for
respondent No. 3.

RAJIVE BHALLA, J (ORAL).

The petitioners, who are 29 in number, pray for issuance of a writ of certiorari quashing mutation, dated 15.03.1954, (Annexure P-2), recording the Gram Panchayat, as owner.

Counsel for the petitioners submits that as the mutation was sanctioned on the basis of a letter, and as the petitioners were in possession, the land could not be mutated in the name of the Gram Panchayat.

Counsel for the Gram Panchayat submits that the mutation was sanctioned on the basis of Act No. 1 of 1954, referred to in the letter. Act No. 1 statutorily declares that land described as 'Shamilat Deh', shall henceforth vest in a Gram Panchayat. The mutation merely reflects the declaration of ownership as set out in the Act. A writ petition to challenge a mutation is not maintainable and in case the petitioners assert title, they are required to file a suit under Section 13-A of the Punjab Village Common Land (Regulation) Act, 1961. A perusal of the relevant jamabandi reveals that the land in dispute, is 'Shamilat Deh'. The nature of the land is 'Banjar Qadeem'. The land was used by the Gram Panchayat as a 'Maqbooza Charand Mazkoor' (a grazing ground) and is, therefore, included in the 'Shamilat Deh' of the village and vests in the Gram Panchayat.

We have heard the counsel for the parties, appraised the paper book, particularly the mutation and the jamabandi. The petitioners assert that a mutation cannot be recorded on the basis of a letter. The impugned mutation, as is apparent from the mutation was recorded pursuant to a statutory declaration, made by Act No. 1 of 1954, declaring that the 'Shamilat Deh' of a village shall vest in a Gram Panchayat. A mutation is even otherwise a mere revenue entry recorded to update revenue record. The remedy available to the petitioners was to approach the Collector, under Section 13-A of the Punjab Village Common Land (Regulations) Act, 1961, (as applicable to Haryana), the

only authority empowered to determine whether a parcel of land is excluded or included in the 'Shamilat Deh' of a village.

Consequently, without expressing any opinion on the merits of the controversy, the writ petition is dismissed but by granting liberty to the petitioners to seek their remedy under Section 13-A of the Punjab Village Common Land (Regulations) Act, 1961.

The parties shall maintain status quo with respect to the land, in dispute, for a period of 4 weeks from today.

(RAJIVE BHALLA)
JUDGE

(AMOL RATTAN SINGH)
JUDGE

28.04.2015
amit rana