

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Civil Writ Petition No.5318 of 2006

Date of Decision: August 10, 2015

Gram Panchayat village BadmajraPetitioner
versus
The State of Haryana and othersRespondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE JASPAL SINGH.

Present: Mr.M.P.S.Mann, Advocate, for the petitioner.
Mr.Ashwani Chopra, Senior Advocate with
Mr.Harsh Bunger and Mr.Harminder Singh, Advocates
for respondent No.10.

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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?*

Surya Kant, J. (Oral)

The instant writ petition has been preferred by the Gram Panchayat of village Badmajra, Tehsil and District SAS Nagar Mohali, challenging the order dated 13.01.2006 (P-8) passed by the Director, Rural Development and Panchayats, Punjab, exercising the powers of Appellate Authority under the Punjab Village Common Land (Regulations) Act, 1961. Vide the above-stated order, the appeal preferred by the proprietors/ private respondents was allowed in part.

Earlier, the writ petition was dismissed by this Court but the matter has been remanded by the Hon'ble Supreme Court.

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

We find from the impugned order dated 13.01.2006 passed by the Appellate Authority that some of the parcels of land which are used for 'common purposes' are held to have vested in the Gram Panchayat but the revenue entries (jamabandies started from the years 1918-19 onwards) in respect of the remaining land which has gone to the share of proprietors, have not been specifically dealt with especially for the purpose of determining the individual's cultivating possession. There can hardly be any dispute that during the pendency of this writ petition, certain decisions rendered by this Court and the Hon'ble Supreme Court, including the Full Bench decision of this Court in CWP No.2318 of 2002 (Parkash Singh and others versus Joint Development Commissioner, Punjab and others), decided on 08.11.2013, are likely to have some bearing on the merits of the case.

We are thus of the considered view that the Appellate Authority ought to have passed an elaborate order on consideration of all the contentions raised by the parties. Resultantly, we allow this writ petition in part; set-aside the order dated 13.01.2006 passed by the Director, Rural Development and Panchayats and remit the case to the Appellate Authority to decide the same afresh. With a view to facilitate the Appellate Authority to arrive at just conclusion, the parties are permitted to produce additional evidence comprising official documents/revenue record etc. for which the Appellate Authority shall afford two opportunities each to the proprietors and the Gram Panchayat, respectively, and shall thereafter decide the appeal by way of a reasoned order within a period of six months from the date of receiving a certified copy of this order. Needless to say that the

observations made in this order are tentative in nature and the Appellate Authority shall decide the appeal uninfluenced of such observations and in accordance with law.

The parties are directed to appear before the Director, Rural Development and Panchayats, Punjab, Chandigarh, on 10.09.2015.

The parties shall maintain status-quo re: possession and alienation till the decision of the appeal.

Dasti.

[SURYA KANT]
JUDGE

August 10, 2015
mohinder

[JASPAL SINGH]
JUDGE