

*IN THE HIGH COURT FOR THE STATES OF PUNJAB
AND HARYANA AT CHANDIGARH.*

CWP No. 12191 of 2015. [O&M]
Date of Decision: 10th August, 2015.

Sukhdev Singh & Ors. Petitioners through
Mr. M.L.Saggar, Sr. Advocate with
Mr. Sunny Saggar, Advocate.

Versus

State of Punjab & Ors. Respondents through
Mr. Rajesh Bhardwaj, Addl. AG, Punjab.
Mr. D.S.Malwai, Advocate,
for respondents No. 5 and 6.

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE JASPAL 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?**

SURYA KANT, J. [ORAL]

The controversy herein pertains to proprietary and possessory rights over the land measuring 49 acres, 4 kanals and 8 marlas situated at village Chhiniwal Kalan, Tehsil & District Barnala. The petitioners including a registered Society – petitioner No. 5 claim that the subject land is *Jumla Mustarka Malkan*, i.e., owned by the proprietors of the village, while Gram Panchayat of the village has strongly repudiated their claim and maintains that it is *shamlat-deh* and vests in it.

[2]. The Gram Panchayat came to this Court in CWP No. 10942 of 2015 seeking a direction to the Police Authorities to provide police help for the auction of the land. This Court disposed of the writ petition [P-2] with a direction to the Police Authorities that if there is no legal impediment, then the Gram Panchayat be allowed to auction

the subject land without any interference or hindrance by any person.

[3]. On the other hand, some of the villagers are said to have approached the Civil Court in the year 1986 when their injunction suit was decreed restraining the Gram Panchayat from dispossessing them except in due course of law.

[4]. There can indeed be no quarrel that the question whether a land is *shamlat-deh* and vests in the Gram Panchayat or it is owned by the proprietary body of village exclusively falls within the jurisdictional ambit of the Authorities/Court under the Punjab Village Common Lands [Regulation] Act, 1961. The Gram Panchayat can under Section 7 of the Act seek eviction of un-authorised occupants through summary eviction proceedings and in the event of any title dispute, either party can seek a declaration of title under Section 11 of the Act.

[5]. Unfortunately, none of the parties has so far approached the Court of Collector under Section 7 or 11 of the Act. The claim and counter-claim raised by the petitioners and Gram Panchayat before this Court can not be effectively adjudicated as the same involve seriously disputed questions of facts.

[6]. In this fact situation, it appears appropriate to grant liberty to the Gram Panchayat of the village, if so advised, to initiate eviction proceedings against the petitioners under Section 7 of the Act. Since it would be difficult to establish identity of every villager who is in physical possession of the part of land, we make it clear that the Gram Panchayat need not implead every proprietor of the village as a party-respondent. It shall be sufficient for the Gram Panchayat to

implead the writ petitioners as party-respondents and then get a *Munadi* conducted in the village so that any one who wants to contest the claim of Gram Panchayat may seek his/her impleadment before the Collector in the proceedings to be initiated by the Gram Panchayat.

[7]. If the Gram Panchayat files a petition under Section 7 of the Act within one month, we direct the Collector to take up the same, if need be, on weekly basis and decide the same in accordance with law within a period of four months of its institution. For that purpose, the Collector shall be at liberty to grant only limited opportunities to the parties to lead their respective evidence. Similarly, the interested persons shall be permitted to join the proceedings only within one month from the date the *Munadi* is conducted and the Collector's Court to whom such petition may be entrusted for adjudication shall verify the genuineness of *Munadi*, leaving no scope for any one to make a grouse of not being heard.

[8]. If the question of title is raised and the Collector is inclined to decide such question, the same shall also be decided in these very proceedings and within the time-frame given above.

[9]. Till such time the above mentioned proceedings are decided, *status-quo* re: possession and alienation be maintained.

[10]. Disposed of. Dasti.

(SURYA KANT)
JUDGE

August 10, 2015.
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(JASPAL SINGH)
JUDGE