

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

CWP-24354-2014

Decided on : 30.03.2015

Ajmer Singh and another

..... Petitioners

VERSUS

**Director Rural Development and
Panchayats Department, Mohali
and others**

..... Respondents

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

Present: **Mr.Ashok Giri, Advocate, for the petitioners.**

RAJIVE BHALLA, J. (ORAL)

The petitioners pray for issuance of a writ of certiorari, quashing orders dated 26.07.2010 and 07.12.2011, passed by the Collector-cum-Divisional Deputy Director, Village Development and Panchayats, Patiala and the Director, Village Development and Panchayats, Punjab, Mohali, respectively.

Counsel for the petitioners submits that the petitioners' predecessors are recorded as owners in cultivating possession prior to 1950. The land is, therefore, excluded from *Shamilat Deh* by virtue of Section 2(g)(iii) of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as the "1961 Act"). A perusal of the jamabandi for the year 1947-48 reveals that the land is recorded as "Shamilat Deh Munkisma (18 Hal)", thereby clearly indicating a partition between proprietors in accordance with their

share holdings. The appellate authority as well as the Collector have not paid due attention to the jamabandi and other entries in the revenue record, which prove that the case set up by the Gram Panchayat that it is owner of the land, in dispute, is not proved from the revenue record.

We have heard counsel for the petitioners, perused the impugned orders as well as the relevant revenue record.

The Gram Panchayat filed a petition under Section 11 of the 1961 Act, praying for a declaration that the land is *Shamilat Deh* and, therefore, vests in the Gram Panchayat. The Collector allowed the petition. The matter was, however, remanded on appeal. The Collector once again allowed the application. The appeal filed by the petitioners has been dismissed.

The petitioners assert that as their predecessors were proprietors in cultivating possession of their respective shares and the land stood partitioned amongst them prior to 1950, the land is not included in the *Shamilat Deh*. A perusal of the jamabandi reveals that the land is recorded as “*Shamilat Deh Munkisma (18 Hal)*”. The aforesaid expression does not denote a partition as all that it denotes is that 18 proprietors were owners in accordance with their shareholdings. The nature of the land is Banjar Qadim (wrongly translated as “Ajar Kadma”), Gair Mumkin Marian (cremation ground) and a graveyard i.e. land used for common purposes. The fact that this land is allotted a single khewat number proves that the

land was not partitioned. If the land has been partitioned, it would not have been referred to as *Shamilat Deh* but would be recorded as the separate ownership of each proprietor by reference to his name and allotted a separate khewat number denoting his separate ownership. This apart, a perusal of the column pertaining to the nature of the land reveals that most of the land is a Gair Mumkin Nadi (river/street), Banjar Qadim (wrongly translated as “Ajar Kadma”), Gair Mumkin Marian (cremation ground) graveyard and a Chappar (pond), which could not be in cultivating possession of proprietors prior to 1950 as required by Section 2(g)(iii) of the 1961 Act.

Consequently, we find no error of jurisdiction or of law in the impugned orders holding the land, in dispute, is *Shamilat Deh* and vests in the Gram Panchayat.

Dismissed.

[RAJIVE BHALLA]
JUDGE

30.03.2015
Shamsher S.Sabharwal

[AMOL RATTAN SINGH]
JUDGE