

**CWP No. 9012 of 2014
DECIDED ON: AUGUST 10, 2015**

SADHU SINGH

.....PETITIONER

VERSUS

DIRECTOR URBAN DEVELOPMENT & PANCHAYAT, PUNJAB & ORS

.....RESPONDENTS

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

Present: Mr. S.S. Dinarpur, Advocate
for the petitioner.

Mr. Rajesh Bhardwaj, Addl. AG, Punjab.

Mr. V.K. Sandhir, Advocate
for respondent No.3.

SURYA KANT, J (ORAL)

Petitioner assails the order dated 21.09.2012 (P-7) passed by Director Rural Development & Panchayat [exercising the powers of Commissioner under the Punjab Village Common Lands (Regulation) Act, 1961] whereby, the appeal filed by Gram Panchayat, Bhateri-respondent No.3 has been allowed, setting aside the order dated 05.11.2009 passed by Collector-cum-Additional Deputy Commissioner (Development), Fatehgarh Sahib under Section 11 of Punjab Village Common Lands (Regulation) Act, 1961.

The controversy pertains to the land measuring 2 kanals 4 marlas in respect of which a sale deed dated 20.06.1981 was executed in favour of petitioner

by one Tek Chand. The question that arose for consideration of the authorities was whether Tek Chand was owner of the said land or it stood vested in the Gram Panchayat? The Collector on consideration of evidence held that Gram Panchayat failed to prove its ownership, as the land was found to have been allotted to Tek Chand s/o Megh Raj, who had further sold it to petitioner for consideration. The suit was consequently dismissed, as the land was not found to have vested in Gram Panchayat.

The Gram Panchayat preferred an appeal, which has been allowed by Director Rural Development and Panchayat vide impugned order dated 21.09.2012 (P-7).

On 07.05.2015, this Court heard counsel for the parties and passed the following orders:

“A perusal of the jamabandi in vernacular, reveals that it carries a note in the remarks column that vide Report No.415 dated 15.06.1981, khasra No.79//100(0-14), 102(1-10) was allotted to Tek Chand, the petitioner's vendor.

The Collector has referred to an allotment and the execution of a sale deed, dated 25.07.1976, by the Naib Tehsildar (Sales)-cum-Managing Officer, Patiala, in favour of Tek Chand, the petitioner's vendor. The Collector has held that roznamcha entry No.415 of 15.06.1981(Ex.R1) records the allotment and Ex.R4 records a mutation relating to the allotment. The Collector has also held that the land is excluded from the “Shamilat Deh” of the village in view of Section 2(g)(ii-a) of the Punjab Village Common Lands (Regulation) Act, 1961.

Counsel for the State of Punjab is directed to verify whether any allotment was made in favour of Tek Chand by the Rehabilitation Department and whether the Naib Tehsildar (Sales)-cum-Managing Officer, Patiala, executed a sale deed dated 25.07.1976 or any other sale deed in favour of Tek Chand, the petitioner's vendor.

Adjourned to 18.05.2015.”

In deference to above-stated order, Tehsildar, Bassi Pathana has filed his affidavit alongwith documents Annexures A-1 to A-7. It is candidly acknowledged that subject land was allotted to Tek Chand and an entry to this effect was made in rapat roznamcha on 15.06.1981. Tek Chand admittedly, sold the land to Sadhu Singh-petitioner vide sale deed dated 20.06.1991. The affidavit further says that original record of allotment is not traceable though efforts are being made to locate the same. The above noticed facts, coupled with the documents do have a bearing on the merits of the case. It is however, difficult to form any conclusive opinion as some evidence or proof to co-relate the land under occupation of petitioner with the land, which was allotted to Tek Chand, is still required to be led. We thus, set aside the order passed by Appellate Authority and remit the case to it to decide the appeal afresh in the light of undisputed facts noticed above.

Parties are directed to appear before Appellate Authority on 10.09.2015.

(SURYA KANT)
JUDGE

(JASPAL SINGH)
JUDGE

AUGUST 10, 2015
SHAM