

CWP No.13813 of 1994 -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA, AT CHANDIGARH

CWP No.13813 of 1994

Date of Decision : 16.3.2016

Gram Panchayat Dudhar

..Petitioner

Vs.

State of Punjab and others

..Respondents

**CORAM : HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE P.B.BAJANTHRI**

Present: Mr. G.S.Bal, Sr.Advocate with
Mr. ADS Bal, Advocate for the petitioner.

Mr. K.K.Gupta, Addl.AG Punjab.

Mr. Amit Jain, Advocate for respondent No.4.

Surya Kant, J.(Oral)

The instant writ petition has been filed challenging the order dated 2.3.1994 passed by the Commissioner-cum-Appellate Authority in purported exercise of its powers under Section 7(2) of the Punjab Village Common Lands (Regulation) Act, 1961 (for short 'the Act') whereby the eviction petition filed by the Gram Panchayat against respondent No.4, has been dismissed.

No sooner this petition was taken up for final hearing, learned counsel for respondent No.4 raised an objection and rightly so, that the documents relied upon by him raise a debatable issue qua the title of the land in dispute. He, however, fairly admits that as per his information, so far no petition under Section 11 whereunder such like title dispute can be adjudicated, has been filed by the private respondents or the Gram

Panchayat. Since both the parties are relying upon their respective set of documents in order to establish as to whether or not the private respondents were in physical possession of the land in dispute on the material date, we are of the considered view that the matter requires re-adjudication by the Authorities including the question of title in respect of the suit land.

Since we are inclined to remand the case, it is not expedient or desirable for this Court to express any opinion touching the merits of the case.

In the light of the above discussion, the writ petition is allowed in part and the orders passed by the Collector as well as of the Commissioner are set aside. The matter is remitted to the Collector, Patiala who is directed not to give more than two opportunities to both the parties to lead evidence on the question of title of the land in dispute and thereafter determine as to whether the said land falls within the definition of *Shamlat Deh* and/or is excluded under any of the exclusion Clauses of Section 2(g) of the Act. The specific issue in this regard shall also be formulated. Parties are directed to appear before the Collector Patiala on 2.5.2016. As an abundant precaution, it is further clarified that the observations made in the orders which have since been set aside, shall have no bearing on the questions now to be determined by the Collector.

(Surya Kant)
Judge

(P.B.Bajanthri)
Judge

16.3.2016
Meenu