

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

CR No. 6250 of 2014 (O&M)

Date of decision: 07.01.2016

Rajpal and others

... Petitioners

versus

Municipal Corporation and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Sushil Jain, Advocate for the petitioner.

Ms. Gurinder Kaur, Advocate for the respondents.

K.Kannan, J. (ORAL)

The revision petition is against the order of dismissal of the application for injunction at the Appellate Court when the plaintiff had the benefit of interim order of injunction at the Court of first instance.

The contention made was that the property was recorded as *gada khad* before the year 1961 that fell within the definition of *shamlat* under Section 2(g) (5) (4i) of the Common Lands Act. There is surely a prima facie case for consideration of the petitioner's case and I do not think the respondents should be allowed to disturb the nature of user in the manner canvassed by the petitioner.

It is contended by the respondents that the property could be used as *gada khad* can be only 1 *marla* for non-proprietors and 4 *marlas* for proprietors and therefore, the plaintiff cannot have the benefit. These contentions can be brought before the trial Court to discredit the plaintiff's case but as of now I do not think the defendant should be permitted to alter the status quo and disturb the plaintiff's manner of enjoyment.

The order of First Court is restored and the impugned order is set aside. The civil revision petition is allowed on the above terms.

07.01.2016

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(K.KANNAN)
JUDGE