IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.2414 of 2016
Date of Decision: February 08, 2016

Hardit Singh ....Petitioner

versus

Director Rural Development and Panchayat, Punjab & others .....Respondents

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

Present: Mr.G.S.Nagra, Advocate, for the petitioner.

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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 petitioner assails the orders dated 27.02.2013 (P-5) and 17.04.2015 (P-8) of the Collector and the Appellate Authority respectively, passed under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short, 'the 1961 Act').

[2] Vide the first order, the Collector dismissed the petition filed by the petitioner seeking declaration of ownership and vide the second order, the Appellate Authority has rejected his appeal against the order of Collector.

[3] It is not in dispute that in the column of ownership in the revenue record, the suit land is shown as 'Jumla

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Mushtarka Malkan Hakdaran Deh Hasab Rasad Rakba Khewat'. As per the khatoni paimash (P-2), the khasra numbers in respect of which the petitioner filed the declaratory petition were not in individual cultivating possession of the predecessors-in-interest of the petitioner rather the same were used for common purposes like for military camp etc. In the subsequent revenue record, the Gram Panchayat has been shown to be in possession of the suit land.

[4] The authorities below have relied upon Section 42-A of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 to hold that the control and management of such like lands vests in the Gram Panchayat. It would be useful to reproduce Section 23-A and 42-A of the 1948 Act which are to the following effect:

> "23-A. Management and control of lands for common purposes to vest in Panchayats or State Government:- As soon as a scheme comes into force, the management and control of all lands assigned or reserved for common purposes of the village under Section 18:-
>
> (a) in the case of common purposes specified in sub-clause (iv) of clause (bb) of section 2 in respect of which the management and control are to be exercised by the State Government, shall vest in the State Government and
>
> (b) in the case of any other common purpose, shall vest in the Panchayat of that village;

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> and the State Government or the Panchayat, as the case may be, shall be entitled to appropriate the income accruing therefrom for the benefit of the village community, and the rights and interests of the owners of such lands shall stand modified and extinguished accordingly....."
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> xx xx xx xx
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> xx xx xx
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> "42-A. Prohibition to partition the land reserved for common purposes:- Notwithstanding anything contained in this Act or in any other law for the time being in force, or in any judgment, decree, order or decision of any court, or any authority or any officer, the land reserved for common purposes whether specified in the consolidation scheme or not, shall not be partitioned amongst the proprietors of the village, and it shall be utilized and continue to be utilized for common purposes...."

[5] It may be seen from the above-reproduced provisions that such like lands though not owned by the Gram Panchayt but being used for common purposes, their control and management vest in the Gram Panchayat.

[6] Besides this, the Appellate Authority has held, as a matter of fact, that the subject land is being auctioned by the Gram Panchayat to generate its income and instance of one such lease executed on 01.05.1999 has been relied upon.

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[7] Be that as it may, in view of statutory mandate referred to above, no interference in the impugned orders is called for.

[8] Dismissed.

[SURYA KANT]
JUDGE

February 08, 2016
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[P.B.BAJANTHRI]
JUDGE

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