

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

**CWP No.5956 of 2016 (O&M)**

**Date of Decision : 08.07.2016**

Prem Singh

....Petitioner

Versus

Director, Rural Development and Panchayats  
Department, Punjab and others

....Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER  
HON'BLE MR.JUSTICE DR.SHEKHER DHAWAN

....

1. Whether Reporters of Local Newspapers 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?

...

**MAHESH GROVER,J.**

Present: Mr.Balbir Singh Saini, Advocate  
for the petitioner.

.....

**MAHESH GROVER, J.**

The petitioner impugns the order dated 18.11.2015.

He moved an application under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as 'the Act') to claim that he is owner in possession of 0 Kanal 4 Marlas land out of Khasra No.247/3 situated at village Badla Tehsil Khamanon, District Fatehgarh Sahib. He had claimed that he had constructed a house on the disputed portion prior to

26.01.1950 and, therefore, not covered under Section 2(G) of the Act. Alternatively, he pleaded that he is entitled to get allotment of the said plot by paying the market value of the land in terms of Rule 4(1) (a) of the Punjab Village Common Lands (Regulation) Rules, 1964 which is extracted here below :

**“4. Terms for saving existing possession** (Section 5 and 15(2) (f)-- (1) Where a person has built a house or erected any other structure on any land the Shamlat deh, before the coming into force of the Act, the Panchayat may allow such person to retain possession of the site by-

(a) selling it to him at the market value prevailing at the time of the sale to be determined by the Collector or the officer appointed by him for the purpose; provided that if the person concerned is unable to pay the entire amount immediately, it shall be recovered in such installments to be spread over a period not exceeding five years as may be determined by the Panchayat;”

The Collector noticed that there was no material to indicate the construction was prior to 1950 entitling the petitioner to the protection of Section 2(G) of the Act. As per the demarcation report carried out by the revenue officials, Khasra

No.247 was recorded as Gair Mumkin Johar. The construction of the appellant's house was also recorded in the report. Finding the petitioner to be an unauthorised occupant, whose name appeared in the list of defaulters as well, his prayer under Section 11 of the Act was rejected.

Learned counsel for the petitioner contends that the finding of the Collector is erroneous as he has constructed the house prior to 26.01.1950. To a pointed question as to whether he has any material to indicate as such, learned counsel for the petitioner could not produce any material in support of his plea and that too despite an opportunity.

The Hon'ble Supreme Court in *Jagpal Singh & others v. State of Punjab and others*; 2011 (1) RCR (Civil) 912 has clearly held that the Gram Panchayat land cannot be sold to private persons or commercial enterprises as it would amount to jeopardizing the common interest of the villagers. It was stated therein that lands comprised in shamlat deh which are meant for public utilities like ponds, school, hospitals, passages, cremation ground or grazing ground cannot be alienated or sold in favour of private parties to jeopardize the interest of the villagers. The facts of the present case indicate the construction of a house in the khasra where Johar is situated, which to our minds is essential to the interest of the villagers and thus finding the petitioner to be

in unauthorised occupation of Gram Panchayat land, particularly of a portion intended for public utilities, we would not interfere with the impugned order, particularly when no material has been shown to substantiate the plea of construction being prior to 26.01.1950.

Petition dismissed.

(MAHESH GROVER)  
JUDGE

08.07.2016  
dss

(SHEKHER DHAWAN)  
JUDGE