

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

**LPA No.1687 of 2015 (O&M)
Date of Decision: 25.01.2016**

Usha & Ors.

... Appellants

VS.

State of Haryana & Ors.

... Respondents

**CORAM: Hon'ble Mr.Justice Surya Kant
Hon'ble Mr.Justice Harinder Singh Sidhu**

Present: Mr. Ashok Verma, Advocate for the appellants

SURYA KANT, J. (Oral)

(1) This Letter Patents Appeal assails the order dated 23.07.2015 whereby learned Single Judge has dismissed the appellants' writ petition on merits as well as on account of inordinate delay and laches.

(2) The appellants in their writ petition laid challenge to the orders dated 30.03.2011 and 26.05.2011 whereby their claim for allotment and purchase of land in their unauthorized possession measuring 64 kanals, under Rule 8 of the Haryana Evacuee Properties (Management and Disposal) Rules, 2011 framed under the Haryana Evacuee Properties (Management and Disposal) Act, 2008 was turned down by the authorities with a concurrent finding that the subject-land was not an 'evacuee land' which could be disposed of under the aforesaid Act/Rules rather it was owned by the Gram Panchayat and stood vested in it under

the Punjab Village Common Land (Regulations) Act, 1961 as applicable to the State of Haryana.

(3) It may be seen from the orders challenged in the writ petition that the claim of the appellants rested on the plea that the subject-land was an 'evacuee property' and it was so recorded in the jamabandi for the year 1978-79. The authorities have turned down the claim explaining that originally the land was recorded under the ownership of the Gram Panchayat as was clear from the jamabandi for the year 1973-74 but the said entry in the jamabandi was conspicuously changed without following the prescribed procedure. The entry was again corrected and the Gram Panchayat was shown to be its owner in the jamabandi for the year 2003-04 onwards. In addition, the authorities have found, as a matter of fact, that the subject-land was the share of the Muslim proprietors of the village in the 'shamlat deh' who left the country during Partition and such like land, in view of the authoritative pronouncement by the Supreme Court in the case of **Gram Panchayat of village Jamalpur vs. Malwinder Singh (1985) 3 SCC 661**, is governed under the State law, namely, the Punjab Village Common Land (Regulations) Act, 1953 later on repealed by the 1961 Act. Their Lordships in the cited decision noticed a direct conflict between Section 8(2) of the Central Act, namely, the Administration of Evacuee Property Act, 1950 and Section 3 of the 1953 Act on the question of vesting of evacuee

property and finally answered the same in favour of the State law, namely, that such land vests in the Gram Panchayat. The authorities have followed the cited decision to hold that the subject-land vests in the Gram Panchayat and it being not an evacuee property, cannot be allotted to the petitioners under the 2008 Act or 2011 Rules framed thereunder.

(4) No exception can be taken to the view formed by the authorities.

(5) As regards the inordinate delay and laches, learned Single Judge has rightly observed that the writ petition was liable to be dismissed on that score also. It may be seen that the last impugned order was passed in May 2012 whereas the writ petition appears to have been filed in or after July, 2015. There is not even a whisper what to talk of reasonable explanation of the delay of more than 3 years in instituting the petition. Be that as it may, on merits also, no case has been made out by the appellants.

(6) Dismissed.

(Surya Kant)
Judge

25.01.2016
vishal shonkar

(Harinder Singh Sidhu)
Judge