

In the High Court of Punjab and Haryana at Chandigarh

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**CR No.275 of 2017 (O&M)
Date of decision: 10.8.2017**

JOGINDER SINGH

.....petitioner

Versus

STATE OF PUNJAB & ORS.

.....respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Gurpreet Singh, Advocate and
Ms.Ginnijeet Malhotra, Advocate,
for the petitioner.

Mr. Charanpreet Singh, AAG, Punjab
for respondent No.1.

Mr.Shekhar Verma, Advocate
for respondent No.2.

Mr.Parshant Bansal, Advocate
for respondent No.3.

Mr.Kamal Narula, Advocate
for respondents No.5 to 7.

RAJ MOHAN SINGH, J.(oral)

This revision petition has been filed by the petitioner
against the order dated 1.12.2016 passed by Additional District
Judge, Patiala, whereby application for framing of additional

issues was dismissed.

Petitioner sought to get the following additional issues framed:-

“(1-A) Whether the land in question has been wrongly recorded as Gram “Panchayat” in the revenue record? OPP

(1-B) Whether the claimants/ objectors/ applicants are the khewatdars of village Faloli Tehsil and District Patiala, if so, whether they are entitled to compensation as per their share, (if yes, then to what extent?) OPP.”

Learned counsel for the petitioner has submitted that initially the joint land was *Jumlan Mustarka Malkan*, which was earmarked after applying prorata cut on the holdings of the proprietors. The area so received was sought to be utilised for common purposes of the village and the area not so utilised was termed as *Jumlan Mustarka Malkan*. Vide Government letter dated 22.9.1961, the aforesaid land was ordered to be vested in panchayat as *shamlat deh*. In the meanwhile, the land has already been acquired. There is a dispute with regard to apportionment of compensation on the basis of title of the suit property. The prayer for framing of additional issues has been declined by the Additional District Judge, Patiala on the premise that since the reference Court cannot decide title issue between

the parties, therefore, framing of such issues would be of no consequence.

Original issue No.1 as framed on 17.5.2016 would suffice to cover the controversy to some extent, but factum of land whether capable of vesting in panchayat as *shamlat deh* or not, would not be appropriately answered for want of any evidence on the said aspect. In view of above, I am of the considered view that framing of additional issues would facilitate the parties to lead necessary evidence which would further enable the Court to arrive at just conclusion.

Learned counsel for respondent No.3 has submitted that the petitioner may not be granted any such indulgence of reopening his evidence, which he has already concluded on 9.8.2017. After closing of the petitioner's evidence, the evidence of respondent No.3 has started and now the next date before the trial Court is 21.8.2017. In the event of concluding the evidence of the respondents, one opportunity can be given to the petitioner to lead the evidence in respect of issues No. 1-A and 1-B as the petitioner had no opportunity to lead such evidence in affirmative at the relevant time. In such an eventuality, the respondents would be at liberty to cross-examine the petitioner's witnesses (if any) in the context of additional issues in accordance with law.

In view of above, it would be just and appropriate to

allow the application for framing additional issues. The present revision petition is accordingly allowed. Necessary consequences to follow.

August 10, 2017
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(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/Speaking	Yes/No
Whether reportable	Yes/No