

CM-5243-2014 in/and  
CWP-6829-1987 (O&M)

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HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CM-5243-2014 in/and  
CWP-6829-1987 (O&M)  
Date of Decision: July 04, 2017

Kaka Ram (deceased) through LRs .....Petitioners  
Versus  
The Commissioner, Ambala Division, Ambala and others  
.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT  
HON'BLE MR. JUSTICE SUDIP AHLUWALIA

- |    |                                                                       |         |
|----|-----------------------------------------------------------------------|---------|
| 1. | To be referred to the Reporters or not?                               | Yes/No  |
| 2. | Whether the judgment should be reported in the Digest?                | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No  |

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Present: Mr.Rajinder Goyal, Advocate  
for the petitioners.  
Mr.RKS Brar, Addl.AG, Haryana.  
Mr.Jagdish Manchanda, Advocate for respondent No.6.  
Mr.Shakti Kaushik, Advocate for  
Mr.Vinod S.Bhardwaj, Advocate and  
Mr.Sachin Gupta, Advocate for respondent No.7.

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**SURYA KANT, J.**

**CM-5243-2014**

For the reasons mentioned in the application, the same is  
allowed subject to all just exceptions. Annexures P-5 to P-14 are taken on  
record.

**CWP-6829-1987**

The petitioner (since deceased and represented by his legal  
representatives) assails the order dated 12.03.1985 passed by Assistant  
Collector Ist Grade, Gulha, whereby the suit under Section 13/13-A of the  
Punjab Village Common Lands (Regulation) Act, 1961, as amended by

Haryana Act No.2 of 1981(for brevity, 'the 1961 Act'), filed by private

respondent Nos.4 to 6 to the effect that the land measuring 39K-11M bearing Khasra Nos.35/12, 19, 22, 56/2 and 9 situated in the revenue estate of village Pehowa is *shamlat deh* which vests in the Gram Panchayat and that the present petitioner (who was impleaded as defendant No.1 in the suit) had no concern whatsoever with the suit land, was decreed. He has also laid challenge to the order dated 15.06.1987 passed by the Commissioner, Ambala Division, Ambala, whereby revision petition filed by private respondents was accepted and the appellate order dated 03.12.1985 of the Collector, Kurukshetra (Annexure P-3), vide which the petitioner's appeal against the order dated 12.03.1985 of Assistant Collector, Ist Grade, Gulha, was allowed, has been set aside. Consequently, the petitioner seeks restoration of the appellate order dated 03.12.1985 passed by the appellate Authority-cum-Collector, Kurukshetra.

[2] It may, thus, be seen that the core question which arises for consideration in this case is whether the suit land is *shamlat deh* within the meaning of Section 2(g)(iv) of the 1961 Act and vests in the Gram Panchayat or such land is owned by the village including the petitioner?

[3] Learned counsel for the parties are *ad idem* that the above mentioned controversy has to be now adjudicated in the light of the authoritative pronouncement made by a Five-Judge Bench of this Court in **Suraj Bhan and others vs State of Haryana and another**, 2017(2) RCR (Civil) 934. In **Suraj Bhan's** case (supra), the Full Bench has dealt with various issues including the nature and existence of *shamlat deh* lands or 'common lands' and the legal effect of provisions of various statutes re: ownership qua such lands. The conclusions drawn by the Full Bench are

culled out in para 218 of the judgment and some of such conclusions have a direct bearing on the issues raised in the instant writ petition. Since the legal principles laid down in Suraj Bhan's case (supra) are to be applied with reference to the facts of each individual case, learned counsel for the parties rightly contend that the factual and legal dispute involved in this case need to be adjudicated afresh by the prescribed authorities in the light of the law laid down by the Full Bench.

[4] Keeping this in view, the writ petition is allowed in part; the impugned orders dated 12.03.1985 and 15.06.1987, Annexures P2 and P4 are set aside and the matter is remitted to the Collector, Kurukshetra, either to himself adjudicate the suit filed by the private respondents afresh in the light of the decision of this Court in Suraj Bhan's case (supra), or if there is any other Authority competent prescribed to decide such suit, to entrust the same to the said Authority. Keeping in view the fact that the pleadings are complete, it is directed that the suit shall be decided preferably within a period of four months. However, the parties may be granted one opportunity to lead supplementary documentary evidence, if any, which might have bearing on the issues involved.

[5] The parties are directed to appear before the Collector, Kurukshetra on 02.08.2017.

( SURYA KANT )  
JUDGE

July 04, 2017  
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( SUDIP AHLUWALIA )  
JUDGE

1. Whether speaking/reasoned ?
2. Whether reportable ?

Yes/No  
Yes/No