

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 10336 of 1999 (O&M)
Date of decision: 18.5.2017

Sucha Singh Lambardar and others

.. Petitioners

v.

The Gram Panchayat and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Amarjit Markan, Advocate for the petitioners.
Mr. S. S. Swaich, Advocate for respondent No. 1.
Ms. Munisha Gandhi, Additional Advocate General, Punjab
with Mr. Sandeep Kumar Bansal, Assistant Advocate
General, Punjab.

Rajesh Bindal J.

Challenge in the present petition is to the orders dated 6.1.1998 (Annexure P-1) and 12.11.1998 (Annexure P-2), passed by the authorities, whereby the application filed by the Gram Panchayat under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short, 'the Act') was accepted and order of eviction was passed against the petitioners with reference to land measuring 48 kanals and 15 kanals forming part of khasra No. 97 min.

Learned counsel for the petitioners submitted that the issue of title has not been decided. In fact, the land is recorded as “Jumla Mushtarka Malkan” in the revenue record. In terms of the judgment of Full Bench of this Court in Parkash Singh and others v. Joint Development Commissioner,

Punjab and others, 2014(2) RCR (Civil) 721, only Civil Court has the

jurisdiction to decide the dispute regarding title of the land, which is recorded as “Jumla Mushtarka Malkan”. As the proceedings under Section 7 of the Act are summary in nature, the petitioners may be given liberty to get the issue of title of the property in dispute settled, however, till such time the orders passed by the authorities under Section 7 of the Act be not given effect to.

Learned counsel for the Gram Panchayat fairly submitted that the Gram Panchayat has no objection to the prayer made by the petitioners.

After hearing learned counsel for the parties, the present petition is disposed of with the observation that the petitioners shall be at liberty to raise the issue regarding title of the suit property which, according to them, is recorded as “Jumla Mushtarka Malkan” before the court of competent jurisdiction. Till such time the issue of title is decided, the orders of eviction, which have been impugned in the present petition, will not be given effect to, however, after the issue of title is decided, the parties will abide by final adjudication thereof.

(Rajesh Bindal)
Judge

(Ramendra Jain)
Judge

18.5.2017
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No