

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

**CWP No.19260 of 2010
Date of decision:14.03.2017**

Raghubir Singh (deceased through LRs) ... Petitioner
Vs.

State of Haryana and others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Vikram Singh, Advocate
for the petitioners.

Mr. Sandeep Singh Mann, Sr. DAG, Haryana.

Mr. Jasmer Singh Rozera, Advocate
for respondent No.4.

AMIT RAWAL J. (Oral)

The question which has arisen in the present writ petition is that as to whether Gram Panchayat seeking eviction of the petitioner can invoke the provisions of Haryana Public Premises and Land (Eviction and Rent Recovery) Act, 1973 (hereinafter referred to as “1973 Act”) or under Section 7 of Punjab Village Common Land (Regulation) Act, 1961 (hereinafter referred to as “1961 Act”).

Mr. Vikram Singh, learned counsel appearing on behalf of the petitioner in support of his aforementioned contention relies upon the ratio decidendi culled out by this Court in **CWP No.7123 of 2011 titled as Krishan Pal and others vs. The Commissioner, Rohtak Division, Rohtak and others, decided on 13.10.2015.**

Per contra, Mr. Jasmer Singh Rozer, learned counsel appearing on behalf of respondent No.4 – Gram Panchayat submits that in the proceedings aforementioned, the petitioner had set up a claim of title.

Be that as it may, the fact remains that if the land reflected in the revenue record is *Jumla Mustarka Malkan*, the proceedings under 1973 Act cannot be initiated as nature of the aforementioned land do not fall under the category of Public Premises. It should have been under Section 7 of 1961 Act. If any petition is filed under Section 7 of 1961 Act, the petitioner is at liberty to take up all the possible pleas.

Resultantly, the impugned orders are not sustainable in the eyes of law. Accordingly, the same are hereby set aside.

The writ petition stands allowed.

(AMIT RAWAL)
JUDGE

March 14, 2017
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Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No