

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

CWP-12559-2015

Date of Decision: September 11, 2017

Zakir Hussain and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDHIR MITTAL**

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|----|---|---------|
| 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.J.S.Hooda, Advocate
for the petitioners.

Mr.Vishal Garg, Addl.AG, Haryana.
Mr.Mohit Rana, Advocate for
Mr.Gopal Sharma, Advocate
for respondent No.4.

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SURYA KANT, J.

The petitioners are residents of village Kanwarsika, Tehsil Nuh, District Mewat. Their grievance is against the construction sought to be raised by the Gram Panchayat over the land which according to the petitioners is *Jumla Mustarka Malkan* which the proprietors of the village contributed on pro rata basis at the time of consolidation. It is claimed that the proprietary body of the village continues to be the owner of the land and it does not vest in the Gram Panchayat. It is also claimed that such land does not fall within the definition of *shamlat deh* under Section 2(g) of the Punjab Village Common Lands (Regulation) Act, 1961 as applicable to State of Haryana (for brevity,'the 1961 Act').

[2] State of Haryana as well as the Gram Panchayat have opposed the claim of the petitioners. It is maintained that the subject land was

reserved for common purposes during consolidation, therefore, it falls within

the definition of *shamlat deh*. A specific reference is made to the relevant provisions of 1961 Act as well as those of The East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 to urge that the 'management' and 'control' of the land belonging to the proprietary body, which was earmarked for the common purposes of the village, also vests in the Gram Panchayat.

[3] Having heard learned counsel for the parties and after going through the record especially the judgments (Annexures P8 and P9) relied upon by the petitioners, we are of the considered view that controversy whether or not the land in dispute falls within the definition of 'shamlat deh' under Section 2(g) of the 1961 Act or whether it vests in Gram Panchayat or in the proprietors of the village, can be adjudicated by the Court of Collector to whom express powers to this effect are vested under Section 13A of the 1961 Act. The petitioners, thus, are relegated to avail the above-stated remedy. It is directed that in case any declaratory petition is filed by them, the Court of Collector shall expeditiously decide the same, preferably within a period one year from the date of its institution. The judgments relied upon by the petitioners shall be taken into consideration by the Court of Collector while deciding the dispute.

[4] Meanwhile utilisation of the land by the Gram Panchayat shall be subject to final outcome of those proceedings.

[5] Disposed of.

(SURYA KANT)
JUDGE

September 11, 2017
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(SUDHIR MITTAL)
JUDGE

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

Yes/No
Yes/No