
Kaka Singh and anotherPetitioners

Financial Commissioner (Appeals)
Punjab and others**Respondents**

It is submitted that the property in question was transferred to the petitioners in view of the instructions of the Punjab Government dated 29.08.1961. It is not in dispute that the petitioners are still recorded in the respective jamabandies as lessees. The application came to be filed, under Section 11 of the Punjab Village Common Lands (Regulations) Act, 1961 (for short, 'the Act'), at the instance of the Gram Panchayat claiming title over the property in question. The application was decided in favour of the Gram Panchayat holding that the land in question vests in the Gram Panchayat being Shamlat Deh. The appeal against the said order was filed but it was dismissed. It is submitted that in view of the order passed, on the application filed under Section 11 of the Act, mutation proceedings were initiated to record Gram Panchayat as the owner of the property in question.

The petitioners challenged the proceedings before the AC Ist Grade but remained unsuccessful upto the Commissioner and in stead of filing a further revision before the Financial Commissioner, preferred a writ in this Court which was disposed of with observation that the petitioners have an alternative remedy of filing a revision before the Financial Commissioner. The petitioners then filed the revision petition before the Financial Commissioner which was also dismissed and the mutation of the land in dispute, entered into name of Gram Panchayat, was upheld. Aggrieved against these orders, the present petition has been filed.

Learned counsel for the petitioners has argued that as per the jamabandi for the year 1946-1947, the land in question has been recorded as 'Shamlat Deh' in the column of ownership and share of the proprietors is also mentioned. In the column of cultivation, it is recorded as Makbuza Malikan, therefore, it is submitted that at the time when the muslims owners migrated to Pakistan, in the wake of the partition of the country in 1947., the land became evacuee and came into control of the Government under the Administration of Evacuee Property Act, 1950. It is submitted that since it was an evacuee property, therefore, it has been allotted by the State Government to the petitioners as landless persons under the policy but as lessees with a right to purchase the same. It is submitted that the petitioners were inducted as lessees but given right to purchase after five years of lease but the said right was never exercised by the petitioners and ultimately, the Gram Panchayat intervened on the ground that the land in question is 'Shamlat Deh' and does not vest with the Rehabilitation Department for the purpose of allotting the land either to the displaced

persons or to the landless persons as per the policy of the State Government.

That suit has been decreed. Counsel for the petitioner has submitted that the petitioners were not arrayed as a party, therefore, the order passed on the application filed under Section 11 of the Act is nonest insofar their interest is concerned.

I have heard learned counsel for the petitioners and after examining the record, am of the considered opinion that the petitioners are in possession as alleged, being lessees because they were inducted as such but they would not acquire the right of ownership because the said right vested in the Gram Panchayat on the basis that the land in question is a 'Shamlat Deh'. Thus, in my considered opinion, the lessee cannot challenge the right of ownership and may keep on enjoying their right as lessee until and unless dispossessed in accordance with law.

With these observations, I do not find merit in the present petition and the same is hereby dismissed.

July 21, 2017
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(RAKESH KUMAR JAIN)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No