

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

**CWP No.17166 of 2016 &
CWP No.17167 of 2016
Date of Decision:01.02.2017**

1. CWP No.17166 of 2016

Jagmal Singh @ JagmalPetitioner

Vs.

State of Haryana and othersRespondents

2. CWP No.17167 of 2016

Jagmal Singh @ JagmalPetitioner

Vs.

State of Haryana and othersRespondents

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

Present:- Mr. Harvinderpal Singh Bhinder, Advocate
for the petitioner.

Mr. Deepak Balyan, Additional Advocate General,
Haryana.

Mr. A.K. Chauhan, Advocate for Mr. Arvind Singh,
Advocate for respondent No.5.

SURYA KANT, J.(Oral)

The petitioner is a resident of Village Alisherpur Majra, Tehsil Jagadhri, District Yamunanagar. The Gram Panchayat of the village – respondent No.5 filed an eviction petition under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short, 'the Act') as applicable to the State of Haryana, in which eviction order dated 17.3.2016 was passed. The petitioner filed appeal but that has also been dismissed

vide order dated 25.5.2016. Both these orders are under challenge in these proceedings.

One of the plea taken by the petitioner is that he has instituted a declaratory suit under Section 13-A of the Act which is still pending before the Collector, Yamunanagar. In the said suit, the petitioner has sought a declaration of his ownership qua the suit land with a further declaration that the land in dispute does not fall within the definition of 'Shamlat Deh' and thus does not vest in Gram Panchayat. A copy of the suit has been appended as Annexure P.15. The record further reveals that the Gram Panchayat has already put in appearance and filed written statement to the aforesaid suit.

It may be clarified here that the jurisdiction of the Civil Court is expressly barred under the Act and the power to adjudicate as to whether such like land is 'Shamlat Deh' and vest in Gram Panchayat or it is a private property owned by the proprietors, is required to be adjudicated under the Act by the Court of Collector before whom such a declaratory suit is maintainable under Section 13-A of the Act.

Since the title dispute between the parties is pending consideration before the Collector, we are of the view that the eviction orders passed against the petitioner need to be kept in abeyance till the decision of that suit. Consequently, the writ petitions are disposed of with a direction that till the suit filed by petitioner under Section 13-A of the Act is decided, the Gram Panchayat will not execute the eviction orders. However, if the said suit is decided against the petitioner, the Gram

Panchayat shall be at liberty to execute the eviction orders though subject to the remedy of appeal/ revision etc.

It would also be in the interest of justice to direct the Collector to decide the pending suit expeditiously but not later than six months.

A phtocopy of this order be placed on the file of connected case.

**(SURYA KANT)
JUDGE**

**(SUDIP AHLUWALIA)
JUDGE**

**01.02.2017
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Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No