

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.14241 of 2017.

Date of Decision: July 06, 2017

Gram Panchayat, Village Amanipur

.....Petitioner

versus

Director, Rural Development and Panchayats, Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SUDIP AHLUWALIA.

Present: Mr.Gurcharan Singh, Advocate, for the petitioner.

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Surya Kant, J. (Oral)

The Gram Panchayat of village Amanipur is aggrieved by the orders dated 11.07.2014 and 04.12.2015 passed by the Additional Deputy Commissioner (D)-cum-Collector Panchayat Lands, Kapurthala and the Director, Rural Development and Panchayats exercising the powers of Commissioner under the Punjab Village Common Lands (Regulation) Act, 1961 (for short, 'the 1961 Act').

[2] The impugned orders have arisen out of the proceedings initiated by private-respondents under Section 11 of the 1961 Act wherein they sought a declaration to the effect that the order dated 10.08.1988 passed by the Appellate Authority in eviction proceedings initiated under Section 7 of the 1961 Act was illegal, void, inoperative, ineffective and that they continue to be the owners in possession of the land in dispute, fully described in the head-note of the petition and situated within the revenue estate of Village Amanipur, Tehsil Sultanpur Lodhi, District Kapurthala. The case of the private-respondents was that they were in cultivating possession of the suit-land from the time of their fore-fathers and such

within the definition of *shamlat deh* under Section 2(g)(iv) of the 1961 Act. Regardless of that, the Gram Panchayat filed eviction proceedings against the private-respondents under Section 7 of the 1961 Act which were dismissed by the Assistant Collector but on appeal, the Joint Director, Panchayats, accepted the Gram Panchayat's claim vide order dated 10.06.1988. The private-respondents challenged those orders before this Court by way of writ petitions but the same were dismissed by this Court on 09.07.2013.

[3] The private-respondents thus filed the instant declaratory petitions under Section 11 of the 1961 Act claiming *inter-alia* that they were in possession of the land in dispute as its true owners and the eviction orders passed in summary proceedings under Section 7 of the 1961 Act were liable to be set-aside. The Collector as well as the Appellate Authority vide the impugned orders have held that there are lot of manipulations made in the record prepared by the Consolidation Department at the time consolidation took place in village Amanipur. The Collector as well as the Appellate Authority have thus expressed helplessness in resolving the title dispute until the record was corrected by Consolidation Department depicting the actual allocation of land to the proprietors as well as the land which was left out or reserved for common purposes or the land recorded as *shamlat deh*. The matter has been consequently referred to the Consolidation Department to carry out necessary correction in its record.

[4] The Appellate Authority has thus observed as under:-

“ I have reached at the conclusion that the order passed by the learned Collector Lands, Kapurthala is totally correct which have been passed after perusal of all the revenue

record. It is clear that from the revenue record on the file and all the documents that village Amanipur was a village of Muslims before the partition of the country, the land in dispute was the land of Chaudhary Asgar Ali Khan Patti and in the cultivation column and at some places the names of Muslims are included. Before consolidation, this land was entered in the ownership column Centre Government and in cultivation column Makbooza Custodian and name of some allottees were entered and in the year 1961-62 some area Nagar of Panchayat, some Jumbla Malkan Mazkoo in the ownership column and in cultivation column as self cultivation, entered as Mufidam. It is also entered that there is no area of Shamlat Deh before consolidation, whereas after consolidation some area has been entered as Nagar Panchayat and some area as Jumla Malkan. Apart from it, the area of Kallana which has been shown in Masavi has been shown 267 kanals – 14 Marlas at the time of consolidation whereas before consolidation this area was entered in the name of Centre Government and Custodian and allottees in which only 8 Kanal 5 Marlas area was similar whereas the area of Kallana is 33 Min and is 267 Kanal – 14 Marlas. After careful examining the whole record, it has been found that the title of any one of both the parties is not clear and the Gram Panchayat also could not prove its title. From the revenue record, it is proved that Consolidation Department has manipulated the

record of village Amanipur during consolidation, due to
which its correction is necessary.....”

(emphasis applied)

[5] Having heard learned counsel for the petitioner and keeping in view the above reproduced finding of facts, we are satisfied that no case to interfere with the impugned orders is made out. The authorities below have rightly referred the matter to the Consolidation Department for carrying out necessary correction in the consolidation record and thereafter only, it can be effectively determined whether or not the land in dispute falls within the definition of *shamlat deh*?

[6] Learned counsel for the petitioner-Gram Panchayat nevertheless is right in contending that the Consolidation authorities cannot resolve the title dispute as such a power has been expressly vested in the Collector under the 1961 Act.

[7] It appears to us that the authorities below have referred the matter to the Consolidation Department only for the correction of entries in the consolidation record and not for resolving the title dispute. Once the consolidation record is corrected/updated, the title dispute will have to be eventually decided by the forum prescribed under the 1961 Act.

[8] With these observations and clarification, we decline to interfere with the impugned orders.

[9] Dismissed.

[SURYA KANT]
JUDGE

July 06, 2017
mohinder

[SUDIP AHLUWALIA]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No