

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.22068 of 2016 (O&M)

Date of Decision: 02.02.2017

Balbir Singh & Anr.

... Petitioners

VS.

Joint Development Commissioner, Department of
Rural Development and Panchayat Punjab & Ors.

... Respondents

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

Present: Mr. SK Arora, Advocate for the petitioners

SURYA KANT, J. (Oral)

(1) The petitioners seek quashing of the order dated 05.06.2009 (P2) passed by the Collector vide which the petitioners have been ordered to be ejected under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 at the instance of the Gram Panchayat. Vide the second impugned order dated 11.03.2015, the appeal preferred against the ejectment order has been dismissed by respondent No.1.

(2) In the revenue record, the land in dispute is admittedly recorded as “*gair mumkin* rasta”. It is undeniable that any land/property which is meant for a common purpose of the village falls within the definition of *shamlat deh* under Section 2(g) of the Punjab Village Common Lands (Regulation) Act, 1961 and thus vests in the Gram Panchayat.

(3) There is a concurrent finding of fact that the petitioners have constructed their house(s) on a part of the land which is recorded as *gair mumkin* rasta.

(4) In this view of the matter no fault can be found with the eviction order passed under Section 7 of the Act. It may be mentioned that the only exception to save the house could be if it was constructed before 26.01.1950,

namely, the date where prior thereto, the possession over the *shamlat* land is also protected. Vide order dated 24.10.2016, this Court gave an opportunity to the petitioners to produce any evidence to substantiate the plea that the houses were in existence prior to the said cut off date. No such proof has been produced.

(5) In this view of the matter, no fault can be found with the impugned orders.

(6) Dismissed.

(Surya Kant)
Judge

02.02.2017
vishal shonkar

(Sudip Ahluwalia)
Judge

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

Yes
No