

Sr. No.304

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

**CWP No. 9357 OF 1989(O&M)
Date of decision: 15.03.2017**

**Jumla Mushtarka Malkan Patti Bassi, Patti Randhawa and others
.....Petitioners**

versus

**The Joint Director, Panchayat, Punjab and others
.....Respondents**

**Coram: Hon'ble Mr. Justice Mahesh Grover
Hon'ble Mr. Justice Rajbir Sehrawat**

**Present: Mr. Anupam Sharma, Advocate
for the petitioners.**

Mr. Sandeep Vermani, Addl.AG, Punjab.

Mr. Jatinder Singla, Advocate
for respondent No. 3.

Mahesh Grover, J.(Oral)

Petitioners have approached this Court for issuance of a writ in the nature of certiorari quashing the impugned Orders Annexure P-3 and P-4. It was a specific case as raised before this Court that even though the Consolidation Scheme indicated land of Patti Bassi and Patti Randhawa to be reserved for Charand. The same was never utilised as such and therefore, proprietors would have a right to use the same. On 14.12.2016 after noticing the grievance raised before us, we had passed the following orders:-

“The only question that the learned counsel for the petitioners raises now by limiting his prayer is, that even though the consolidation scheme indicated land of Patti

Bassi and Patti Randhawa to be reserved for charand, the same was never utilized as such, which would give him as also similarly situated persons' right to use the same. According to the consolidation scheme, the following are the details of land reserved for charand in Patti Bassi and Patti Randhawa :

Sr. No.	Name of common purpose	Width of path	Killa No.	Area	Value
1	Charand of Patti Bassi	----	----	68-2	2-15-02
2	Charand of Shamlat Patti Randhawa	---	---	107-7	3-5-0

Vide order dated 6.5.2015, this Court had sought a report from the Joint Development Commissioner, Punjab, SAS Nagar, exercising the powers of the Commissioner, under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961, to requisition the relevant revenue record, consolidation scheme and wazib-ul-arz, with respect to the three varieties of land and to submit a report whether the land “Shamilat Patti, Randhawa” and “Shamilat Patti, Bassi” was reserved and used for common purposes of the village.

The report indicates the land of Shamlat Patti Bassi and Patti Randhawa to be reserved for charand and utilized as such.

We notice from the scheme that no reference has been made to wazib-ul-arz and therefore, remit the matter back to the same authority to seek a report on a limited aspect that the question posed in the order dated 6.5.2015 should be compared and consulted with the wazib-ul-arz and a further report

submitted in this regard.

We may also note that there is absolutely no dispute between the parties as far as the consolidation scheme is concerned. Both the learned counsel have accepted that the land reserved for charand in both the Pattis, is absolutely correct. The only issue, therefore, hinges whether it was utilized as such, as per the scheme.

Adjourned to 20.2.2017.”

Subsequent thereto, report has been submitted by way of an affidavit by the Joint Development Commissioner SAS Nagar, Mohali and it would be essential to extract the relevant thereof:-

“In view of the above mentioned order dated 14.12.2016, the undersigned called the relevant record i.e. Scheme Consolidation, Wazib-ul-arj of Village Ghabdan along with Jamabandi/Missal Haqiat for the year 1957-58, mutation no. 1145 dated 26.5.1964, mutation No. 1379 dated 19.1.1972 and latest jamabandi for the year 2014-2015 and perused the same thoroughly and very carefully and found that Sr. No. 1 of Wazab-UI-Urj deals with reservation of land of Shamlat Patti Basi and Shamlat Patti Randhawa for Charand of the Village, management and income of the area of Shamlat Deh, Shamlat Patti Randhawa and Shamlat Patti Bassi whereas, Sr. No. 2 of Wazab Ul Urj deals with right of grazing in Shamlat. For the ready reference of this Hon'ble Court, true translated Para No. 1 and Para No. 2 of Wazab Ul Urj are as under:-

Sr. No. 1: Cultivation, Management and Income of Shamlet Deh Land:

*Area of Shamlat Deh has been transferred in the name of Nagar Panchayat. The area which is Gair Mumkin, apart from this, **area of Shamlat Patti Bassi and Randhawa measuring 66 Bighas 6 Biswas and 121 Bighas 18 Biswas is Bankar and Gari Mumkin which is for Charand and Paths.** There is no cultivated area.*

Joint Khewats can be partitioned according to Bandobast without consent, no person will be heard.

Sr. No.2: Right of Grazing in Shamlat:

*In Village, there is no Shamlat Deh for Charand. **Whereas, Shamlat Area of Patti Bassi and Patti Randhawa is available in the Village.** The detail of which is as under:-*

Patti Bassi: 66 Bighas 6 Biswas

Patti Randhawa: 121 Bighas 18 Biswas.

Which can be used by the proprietors and non-proprietors for grazing their cattles. No rent for grazing will be taken. Moreover, from the perusal of the Scheme of Consolidation of Village Ghabdan, it is found that at Sr. No.3 under the heading of details of area of common purposes at Sr. No. 9, land has been kept reserved for common purposes as 'Charand' of Shamlat Patti Basi and similarly at Sr. No. 22 of the said list, land for common purposes as Charand of Shamlat Patti Randhawa has also been kept reserved.

*Thus, from the entries of wazib-ul-arj, **Annexure R-1/1**, the above land of Shamlat Patti Basi and Shamlat Patti Randhawa was kept for Charand of Village Ghabdan and was used for common purposes of the Village according to wazib-ul-arj of the village.*

*Thereafter, vide mutation No. 1145 dated 26.5.1964, **Annexure R-1/2**, land of 'Shamlat Patti Basi Hasab Rasad Rakba Khewat Measuring 86 Bighas 2 Biswas Pukhta of Khewat No. 159/180 to 181 of Jamabandi for the year 1957-58 was mutated/transferred in the name of Gram Panchayat of village Ghabdan and thereafter, out of said land, land measuring 14 Bighas 4 Biswas Pukhta was acquired and was transferred in the name of Central Government for defence department Millitary vide mutation No. 1379 dated 19.1.1972, **Annexure R-1/3**.*

*3) That further perusal of Jamanbandi/Missal Haqiat for the year 1957-58, **Annexure R-1/4**, reveals that Khewat No.159, Khatauni Nos.180 to 181 of said jamabandi deals with the land of 'Shamlat Patti Basi Hasab Rasad Rakba Khewat' measuring 86 Bighas 2 Biswas out of which 66 Bighas 6 Biswas is agricultural, 19 Bighas 16 Biswas is Gair Mumkin. Similarly, Khewat No. 295 of said Missal Haqiat deals with the land of 'Shamlat Patti Randhawa Hasab Rasad Rakba Khewat' which is 126 Bighas 12 Biswas out of which, 121 Bighas 18 Biswas is agriculture whereas, 4 Bighas 14 Biswas is Gair Mumkin and Khewat No.297 of said jamabandi deals with land of 'Mushtarka Malkan and Allottian Hasab Rasad Rakba Khewat' which is 167 Bighas 2 Biswas and out of which, 124 Bighas 9 Biswas is Gair Mumkin.*

Thus out of said land of 'Shamlat Patti Basi Hasab Rasad Rakba Khewat, land measuring 14 Bighas 4 Biswas was transferred in the name of Central Government whereas, the land measuring 19 Bighas 16 Biswas is Gair

Mumkin and remaining land measuring 52 Bighas 2 Biswas Pukhta has been leased out by the Gram Panchayat for Fish Farm and lease money derived from such land is being used for the common purposes of the village and for the benefit of the village community by Gram Panchayat Village Ghabdan.

*Similarly, Khewat No. 295, Khatauni No. 327 & 328 of Jamabandi/Missal Haqiat for the year 1957-58, Annexure R-1/3 deals with the land of **Shamlat Patti Randhawa Hasab Rasad Rakba Khewat** which was kept reserved for Charand in the Scheme of Consolidation and Wazib-ul-arj of Village Ghabdan was transferred/mutated in the name of Gram Panchayat, Ghabdan vide Mutation No.1145 dated 26.5.1964, Annexure R-1/2 and thereafter, out of the total land measuring 126 Bighas 12 Biswas, land measuring 60 Bighas 6 Biswas Pukhta was acquired and transferred in the name of Central Government Maqbooja Defence Department Military vide mutation No.1379 dated 19.1.1972, Annexure R-1/4 and after leaving area measuring 60 Bighas 6 Biswas Pukhta transferred to Central Government for Defence Department and area measuring 4 Bighas 14 Biswas as Gair Mumkin, remaining area measuring 8 Bighas 14 Biswas is being leased out by the Gram Panchayat and **land measuring 52 Bighas 18 Biswas is being leased out for Fish Pond for ten years and the income derived from the said land is being used for the benefit & welfare of the village community and for development of village Schemes.***

Moreover, from the perusal of

*Jamabandi for the year 2014-15, **Annexure R-1/5**, I found that the land of Shamlat Patti Basi, Shamlat Patti Randhawa which was kept for Charand in wazib-ul-arj and scheme, later on transferred in the name of Gram Panchayat along with land of Mushtarka Malkan is being used for common purposes of the village and for the benefit of the Village Community.*

*The undersigned, in addition to find out the actual and factual position of the land in question in the record as well as the spot, called a report from the Block Development and Panchayat Officer, Sangrur who submitted his report to the District Development and Panchayat Officer, who further sent the same to the undersigned which is attached herewith as **Annexure R-1/6**.*

From the perusal and examination of above mentioned entire record as well as report of BD & PO, Annexure R-1/6, the undersigned found that the land in question of Shamlat Patti Basi and Shamlat Patti Randhawa was kept for Charand in Scheme and Wazib-ul-arj as mentioned above and was used for the common purposes of the village and thereafter, the same was mutated in the name of Gram Panchayat and is being used for the common purposes of the village as well as for the common interest, welfare and benefit of the village community by the Gram Panchayat, Ghabdan as also reflected in the Jamabandi for the year 2014-2015, Annexure R-1/5.”

Having regard to the above stated report to which no objections have been filed by either of the parties, we have no hesitation to accept the

same and dismiss the petition, considering that no violation of consolidation scheme has been established.

[MAHESH GROVER]
JUDGE

15th March, 2018
Shivani Kaushik

[RAJBIR SEHRAWAT]
JUDGE

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*