

**CWP no.5545 of 1999 (O&M)
and connected case**

1

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

1. CWP no.5545 of 1999 (O&M)

Mai Chand and others

....Petitioner(s)

Versus

Commissioner, Rohtak Division, Rohtak and others

...Respondent(s)

2. CWP no.2721 of 1999 (O&M)

Rajinder Singh

....Petitioner(s)

Versus

Commissioner, Rohtak Division, Rohtak and others

...Respondent(s)

Date of Decision : 29.11.2018

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE LALIT BATRA**

Present : Mr.C.B.Goel, Advocate for the petitioner(s)
in CWP No.5545 of 1999

Mr. Rakesh Nagpal, Advocate for petitioners
in CWP No. 2721 of 1999

Mr. Ankur Mittal, Addl. AG, Haryana

Mr. Deepak Manchanda, Advocate

Mr. Dinesh Ghai, Advocate

Mr. Nitin Rathee, Advocate

Mr. Rupinder Thakur, Advocate for
Mr. Vikram Punia, Advocate

MAHESH GROVER, J.(ORAL)

By this order we will dispose of two writ petitions bearing CWP Nos.5545 and 2721 of 1999.

The dispute centres around proceedings initiated under Section 13-A of the Village Common Land Act against the petitioners as they were alleged to be in possession of land reserved for Johar (pond).

Khasra Nos. 35, 36, 37 and 38 were alleged to be reserved for pond which fact the petitioners denied to contend that there was no Johar at all. Initially the Assistant Collector concluded by saying that khasra No. 37 and 38 were meant for pond while khasra no. 35 and 36 were not included in the area reserved for a pond. An appeal followed by the occupants of khasra no. 37 and 38 which was dismissed by the Collector but in revision the decision of the lower Court was reversed and while doing so the competent authority referred to the revenue record after consolidation to conclude that all the khasra nos. i.e 35 to 38 were reserved as Johar and prior to consolidation there were four Johars comprising in khasra nos. 274, 282, 400 and 255 with the total area under it being 80 bighas 18 biswas. The Johars reserved during consolidation proceedings were merely 11 acres as against 16 to 17 acres existing earlier. He then concluded that in terms of Section 23 of the Consolidation Act the land would vest in the Gram Panchayat only for its management and control and would not deprive owners of their title or interest. It is not disputed that land has now come within the municipal area. It was also impleaded as party respondent but their defence was struck off as it failed to file the reply. No attempt was made by it to get this order set aside but during the course of hearing, learned counsel representing

respondent No.8 states that their interest is common to that of Gram Panchayat and they would adopt their reply.

After hearing learned counsel for the parties, we are of the opinion that the order of the revisional authority is in conformity with the revenue record flowing from consolidation proceedings and nothing contrary has been shown to us. What is referred to is the record prior to consolidation which has undergone a change after the completion of consolidation proceedings. The petitioners would thus have no right to persist with their occupation when the land was reserved for common purposes of the village and reserved for a pond. Hon'ble Supreme Court in numerous pronouncements has held that the land which is reserved for such purposes cannot be usurped by the encroachers to frustrate the purpose for which it has been reserved. No ground to interfere is made out. Hence, instant petitions are hereby dismissed. Respondents shall take steps to execute the orders in accordance with law.

(Mahesh Grover)
Judge

29.11.2018
rekha

(Lalit Batra)
Judge

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No