

CWP NO.16186-2014(O&M)

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Sr.No.205

IN THE HIGH COURT OF PUNJAB AND HARYANA CHANDIGARH

CWP NO.16186-2014(O&M)

Date of Decision: 26.03.2018

Amar Singh and others

.....Petitioners

versus

State of Punjab and others

.....Respondents

**CORAM HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE RAJBIR SEHRAWAT**

Present Mr.Vikas Mehsempuri, Advocate for the petitioners
Mr. Sandeep Vermani, Addl. AG, Punjab.
Mr.V.K.Sandhir and Mr. Manish Joshi, Advocates
for respondent no.4.

MAHESH GROVER, J(ORAL)

The present petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of Certiorari quashing the impugned order dated 05.06.2014, endorsed on 24.06.2014 (Annexure P-13), passed by respondent no.2.

Concededly the land belongs to *Jumla Mushtarkha Malkan*. On 08.05.2015, the Court passed an order with the following observations:-

“ *The State of Punjab has already enacted, the Gram Panchayat (Common Purposes Land) Eviction and Rent Recovery Act, 1976 for eviction from Jumla Mushtarka Malkan land and may, therefore, file a reply whether it is ready to consider providing a forum, other than a Civil Court, for determining controversies relating to Jumla Mushtarka Malkan land.*”

During the course of proceedings some other orders were passed seeking the stand of the State in aforesaid and an affidavit has been filed on 19.12.2016 expressing inability to provide any other forum except

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the Civil Court. In **Parkash Singh and others v. Joint Development Commissioner, Punjab and others**, Civil Writ Petition No. 2318 of 2002, decided on 08.11.2013, a Full Bench judgment of this Court after considering the nature of law created during consolidation i.e *Jumla Mushtarkha Malkan* and *Shamlat Deh* has held that since these land do not fall within the definition of *Shamlat Deh*, the provisions of Punjab Village Common Land (Regulations) Act, 1961 would not apply and a person who receives title with respect to such land may approach a Civil Court.

Since State has expressed its inability to provide any other forum, we are of the opinion that the observations of the **Full Bench** would hold. Therefore, the Panchayat would be at liberty to raise these issues in terms of the aforesaid.

For this very reasoning, necessarily we have to set aside the impugned order. The parties would be at liberty to establish their title in accordance with law before the Civil Court as directed.

If the Gram Panchayat or any other party files a suit within a period of four weeks , till that time, the third party right shall not be created by the petitioners. Ultimately it will be up to the Civil Court to take a decision on the restraint order in case such a prayer is made before it.

Disposed of.

(MAHESH GROVER)
JUDGE

26.03.2018
mamta

(RAJBIR SEHRAWAT)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No