

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

C.W.P. No.1518 of 2017 (O&M)

Date of Decision: October 09, 2018

Dilawar Singh

...Petitioner

Versus

State of Punjab & others

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. Nakul Sharma, Advocate,
for the petitioners in all cases.

Mr. Rai Singh Chauhan, Advocate,
for respondent No.4 in all cases.

Ms. Anu Pal, Deputy Advocate General, Punjab

AMIT RAWAL, J.

This order shall dispose of three Civil Writ Petitions bearing No.1518, 1544 and 1523 of 2017 as common question of law and fact is involved.

In all the aforementioned cases, respondent No.4- Gram Panchayat, Saniyal filed an application under Section 7 of the Punjab Village Common Land (Regulation) Act, 1961 as applicable to State of Punjab (for short, 1961 Act) seeking ejectment of the petitioners from various parcels of land situated in Village Saniyal, Tehsil Mukerian, District Hoshiarpur. The claim of the petitioners was that they had been in possession of the suit land since 26.01.1950 and in this regard, reliance was

also laid to the cross-examination of the witness of the Gram Panchayat. However, the Collector, vide order dated 17.02.2016 (Annexure P-5), without looking into the revenue record, i.e., jamabandies for the years 1927-28, 1959-60 and 2012-13 passed the ejectment order. The aforementioned order was assailed by filing statutory appeal before respondent No.2- Commissioner, but vide order dated 07.11.2016 (Annexure P-7), the same was dismissed. The orders under challenge are not sustainable in view of the provisions of clause (iv) of clause (g) of Section 2 of 1961 Act. The revenue record reflected the name of the grand-father of the petitioner recorded as “Gair Marusi Bavja Kabza Hisedari”.

On notice, Block Development and Panchayat Officer, Mukerian filed written statement on behalf of respondent Nos.1 to 3 to the effect that as per jamabandies for the years 1931-32 and 1935-36, Gram Panchayat, Saniyal had been recorded as owner and the nature of the land was barani and salab, thus, the petitioners cannot be said to be in cultivating possession of the suit land. Attention of this Court was also drawn to the jamabandies attached with the written statement of respondent No.4 Gram Panchayat disputing the jamabandies attached with the writ petition, wherein, under column of area of the land, the nature of the land as barani and salab has not been described. It was also urged that petitioners have attempted to mislead this Court for not attaching the correct translated copies of the jamabandies and, thus, prayed for dismissal of the writ petitions.

We have perused the jamabandies, Annexures R4/1 and R4/2 pertaining to the period 1927-28 and 1959-60, wherein the land has been shown as “Banjar Kadim part of Barani and Salab”, but this fact is not

reflected in Annexures P-8 and P-9. When confronted, the learned counsel for the petitioners submitted that the petitioners have filed a petition under Section 11 of 1961 Act claiming title and ownership. As per clause (iv) of clause (g) of Section 2 of 1961 Act, it has been specified that following land would not be shamlat deh in case the same had been acquired before 26.01.1950 by purchase or in exchange for proprietary land from a co-sharer. However, the case of the petitioners does not fall in the aforementioned definition as neither they got the land partitioned before 26.01.1950 nor jamabandies reflect the same. Clauses (iii) and (iv) of clause (g) of Section 2 of 1961 Act read thus:-

“2. Definitions.- In this Act, unless the context otherwise requires,-

xxx xxx xxx

(g) “shamilat deh” includes-

xxx xxx xxx

(iii) has been partitioned and brought under cultivation by individual landholders before the 26th January, 1950;

(iv) having been acquired before the 26th January, 1950, by a person by purchase or in exchange for proprietary land from a co-sharer in the shamilat deh and is so recorded in the jamabandi or is supported by a valid deed; and is not in excess of the share of the co-sharer in the shamilat deh.

(v) to (ix) xxx xxxx xxxx”

Though the writ petitions are liable to be dismissed for not providing the correct information to this Court, but on merit also, in view of foregoing reasons, we do not find any illegality or perversity in the orders

under challenge. No ground for interference is made out.

Writ petitions stand dismissed.

**(RAJESH BINDAL)
JUDGE**

**(AMIT RAWAL)
JUDGE**

**October 09, 2018
ramesh**

**Whether speaking/reasoned
Whether Reportable:**

**Yes/No
Yes/No**