

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

Civil Writ Petition No.21686 of 2016
Date of Decision: October 05, 2018

Raj Pal

...Petitioner

Versus

State of Haryana & others

...Respondents

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

Present: Mr. Naresh Kaushik, Advocate
for the petitioner.

Mr. Chander Shekhar Singhal, Advocate for
Mr. S.P.Chahar, Advocate
for respondent No.4.

Mr. Ankur Mittal, Additional Advocate General, Haryana.

AMIT RAWAL, J.

Petitioner has sought quashing of the resolutions dated 18.05.2015 (Annexure P-3) and 03.06.2015 (Annexure P-4), whereby the Gram Panchayat had carved out and allotted 100 sq. yards plots allegedly on the land of the petitioner measuring 20 kanals 18 marlas.

Mr. Naresh Kaushik, learned counsel representing the petitioner submitted that vide aforementioned resolutions, the Gram Panchayat changed the site of the land by carving out the plots, whereas the aforementioned land belonged to the petitioner. In essence, the Gram Panchayat was trying to carve out plots on the land of the proprietors. As per averments, the petitioner had become owner in possession of the land

vide sale deed dated 08.03.2010 purchased from one Rakesh son of Sultan Singh. On the basis of the reasonable enquiry, it was found that mutation No.955 dated 07.08.2008 was sanctioned and approved in the name of the proprietors, therefore, for all intents and purposes, Gram Panchayat did not have any claim, title and interest therein. Though mutation No.955 was sanctioned but appeals and proceedings qua cancellation of aforementioned mutation were pending. The land in dispute had not been reserved for common purposes.

Mr. Ankur Mittal, learned Additional Advocate General, Haryana representing the State drew the attention of this Court to the stand of respondent Nos.1 to 3 in the written statement that the land in question was shamlat deh prior to the enactment of Punjab Village Common Lands (Regulation) Act, 1961 (for short, 1961 Act) which came into force from 09.01.1954 and vide mutation No.419 dated 12.02.1955, it was mutated in the name of Gram Panchayat Dahisara and reflected as Shamlat Deh Hasab Rasad Rakba Khewat. Vide Act No.9 of 1992, the land aforementioned, vide mutation No.727, vested in the name of the Gram Panchayat. The proprietors challenged the mutation bearing No.727 before the Collector, which was set aside and vide order dated 28.11.2000, mutation No.763 was sanctioned as Shamlat Deh Hasab Rasad Rakba Khewat from panchayat deh. A case for partition of land measuring 822 kanals 2 marlas was filed by one of the proprietors before revenue court and after the culmination of partition proceedings, mutation No.776 on 23.04.1999 was entered in respect of the land being part of aforementioned piece of land. The order of the Collector was assailed by the Gram Panchayat before the Commissioner which was set aside and the revision preferred by the proprietors was

dismissed. Matter reached upto this Court in CWP No.15611 of 2003 and vide order dated 30.01.2004, mutation was ordered to be sanctioned as “Shamlat Deh Hasab Rasad Rakba Khewat”. Accordingly, mutation No.955 in the name of the proprietors was sanctioned. However, the revenue department detected a mistake. Accordingly, a review petition was submitted before the Deputy Commissioner, which was allowed, but during the interregnum, on the basis of the incorrect sanction of mutation, the proprietors sold the land to Rakesh from whom the petitioner had purchased. Civil Writ Petition bearing No.2188 of 2011 was preferred and vide order dated 29.11.2012, the competent authority was directed to decide the suit filed under Section 13-A of 1961 Act in accordance with law, wherein the petitioner was arrayed as respondent No.8. The aforementioned civil suit was decided on 17.03.2015 and the land in question vested in Gram Panchayat. Accordingly, a petition under Section 7 of 1961 Act was filed against the petitioner being an encroacher. Order dated 17.03.2015 of the Collector deciding the suit was assailed in appeal and revision by the petitioner, but remained unsuccessful.

After hearing the arguments of the learned counsel for the parties and perusing the record, we are of the view that the petitioner has no locus standi to assail the resolutions *ibid*, for, he had already lost the title in the property by virtue of the decree dated 17.03.2015 passed under Section 13-A of 1961 Act. Even the proceedings under Section 7 of 1961 Act had also become final. The property stood vested in the Gram Panchayat, which was in its jurisdiction to deal with the same in accordance with law.

We cannot remain unmindful of the fact that the aforementioned specific averments regarding the decree and its finality had

not been rebutted by way of any rejoinder. The case cannot be brought within the realm of judicial review for warranting interference under Article 226 of the Constitution of India. Resultantly, the writ petition is dismissed.

**(RAJESH BINDAL)
JUDGE**

**(AMIT RAWAL)
JUDGE**

**October 05, 2018
ramesh**

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No