

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

210

**CWP-15877-2016 (O&M)
Date of Decision : 31.10.2019**

Gram Panchayat Kishangarh

... Petitioner

Versus

State of Punjab and others

...Respondents

**CORAM:HON'BLE MR. JUSTICE RAKESH KUMAR JAIN
HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present: Mr. Gurinder Sidhu, Advocate for the petitioner.

Mr. Amit Mehta, Senior DAG, Punjab.

Mr. Vikas Mehsempuri, Advocate
for respondents No.3 and 4.

RAKESH KUMAR JAIN, J.(ORAL)

The present petition is directed against the order dated 05.08.2015 (Annexure P-3) passed by the Joint Development Commissioner (IRD), Punjab exercising the powers of the Commissioner under Section 11(2) of the Punjab Village Common Lands (Regulation) Act, 1961 (for short 'Act, 1961') by which he has reversed the order of the Deputy Director, Village Development and Panchayat, Patiala dated 04.02.2013 exercising the power of Collector-cum-Divisional Deputy Director by which a petition filed under Section 11 of the Act by the private respondents has been dismissed on the ground that the revenue authority does not have the jurisdiction to decide the question the right, title or interest involved if the land is recorded in the revenue record as "Jumla

Mushtarka Malkan"

Counsel for the petitioner has relied upon a decision of a full bench of this Court in the case of ***Parkash Singh and others Versus Joint Development Commissioner, Punjab and others***, CWP No. 2318 of 2002, decided on 08.11.2013 in which it has been held that the "Jumla Mushtarka Malkan" land is not included in "Shamilat Deh" and therefore, provisions of the 1961 Act including provisions of Section 11 that empowers the Collector to decide the dispute regarding title shall not apply if the land is "Jumla Mushtarka Malkan".

Mr. Mehsempuri, appearing on behalf of respondents No.3 and 4 has not raised any issue in regard to the law laid down by this Court in the aforesaid judgment ***Parkash Singh's*** (supra) and therefore, the present petition is hereby allowed. Order dated 05.08.2015 (Annexure P-3) passed by the Joint Commissioner (IRD) Punjab is set aside while restoring the order dated 04.02.2013 passed by the Collector-cum-Divisional Deputy Director.

(RAKESH KUMAR JAIN)
JUDGE

(SUVIR SEHGAL)
JUDGE

31.10.2019
pooja saini

Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No