

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

Date of Decision:-31.05.2019

CWP No.17797 of 2018

Ranjit Singh.

.....Petitioner.

Versus

**Director, Rural Development and Panchayats Department-cum-Joint
Development Commissioner (IRD) & Ors.**

.....Respondents.

AND

CWP No.17814 of 2018

Bal Mukand & Anr.

.....Petitioners.

Versus

**Director, Rural Development and Panchayats Department-cum-Joint
Development Commissioner (IRD) & Ors.**

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE ARUM KUMAR TYAGI**

**Present:- Mr. Jatinder Singla, Advocate for the Petitioner(s)
(in both cases).**

JASWANT SINGH, J.

Vide this common order, we propose to dispose of the
aforementioned two writ petitions as common questions of fact and law are
involved. CWP No.17797 of 2018 has been filed by one petitioner,

namely, Ranjit Singh (Successor in interest of Babu Singh) and CWP

No.17814 of 2018 has been filed by two (2) petitioners,namely, Bal Mukund and Sadhu Singh (Successors in interest of Daulat Ram). For the sake of convenience facts would be taken from CWP No.17797 of 2018.

2. Petitioners who claim themselves to be proprietors of the Village have filed the instant writ petition, seeking quashing of the order dated 15.06.2015 (**P-3**) passed by Division Deputy Director, Rural Development and Panchayats, Patiala and order dated 23.08.2017 (**P-15**) passed by Director Rural Development and Panchayat Department-cum-Joint Development Commissioner (Respondent no.1), whereby the title suit filed by the petitioners under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as the 1961 Act) has been dismissed.

3. Learned Counsel for the petitioners has argued that the Gram Panchayat has miserably failed to prove through any document that the land was ever reserved for common purposes. It is further argued that in the absence of any proof that the Gram Panchayat had ever leased out the land as per provisions of Rule 6 of the Punjab Village Common Lands (Regulation) Rules 1964, it cannot be held that the stray entry in the Jamabandi for the year 1957-58, showing the status of the petitioners/their predecessors in interest as lessees of Gram Panchayat are valid and thereby binding upon them, so as to not declare the petitioners are owners of the land in question.

4. We have heard learned Counsel for the petitioners at length and have scrutinized the paper books with his able assistance. However, we are of the view that the instant writ petitions are without any merit and liable to be dismissed.

5. It is not in dispute that the petitioners/their predecessors in interest had filed title suits under Section 11 of the 1961 Act before the Competent Authority. It is further not in dispute that as per Jamabandi for the year 1953-54, in the column of ownership, entry is “**Shamlat Deh Hasab Hisiss Mundarja Shijra Nasab**” and in column no.5, entry is “**Maqbooja Malkan**”; Nature of the land as per column nos.11 & 12 is “**Banjar Qadim**”. Thereafter, in the Jamabandi for the year 1957-58, ownership remains same, but cultivating possession is shown of Babu Singh son of Anokha Singh; Nachattar Singh and Bachana sons of Daulat and others have been shown and in column of rent it is mentioned that Babu Singh; Nachattar Singh and Bachana sons of Daulat and others have taken the land in question on rent. Admittedly, Consolidation had taken place and the Status of land was “**Banjar Qadim**” after consolidation with **ownership column** reflecting **Gram Panchayat as owner**. Meaning thereby, the petitioners/their predecessors in interest came in cultivating possession of the property in question for the first time in the year 1957-58 as tenants as per revenue record. It is admitted position that the said entries or consolidation proceedings have never been challenged before any Court of law till date by the petitioners or their predecessors.

6. Thus, from the aforesaid facts, we are of the view that as per the provisions of Section 2(g) read with Section 4 of the 1961 Act, it was incumbent upon the petitioners to prove their cultivating possession in individual capacity prior to 26.01.1950 so as to claim ownership.

7. Considering the aforesaid factual background, we now deal with the arguments raised by learned Counsel for the petitioners.

8. The first argument of learned Counsel that Gram Panchayat

was required to prove that land was put to common use, is completely misconceived and liable to be rejected. It is seen that the petitioners had filed a title suit claiming ownership of the land on the basis of exemption provided under Section 2(g) read with Section 4 of the 1961 Act, from the definition of “*Shamlat Deh*”. The case of petitioners is that they are the proprietors of the village and were in cultivating possession prior to 26.01.1950. However, there is no such Jamabandi or any revenue entry, which could prove the fact that they were in individual cultivating possession of the land at any stage. Merely because entry of *Shamlat Deh Hasab Hisiss Mundarja Shijra Nasab* was there in the column of ownership with possession of reflected of owners, would not lead to an inference that the petitioners/their predecessors in interest were in individual cultivable possession of the land in question. The petitioners were required to lead cogent evidence in the form of revenue record i.e. *Jamabandies/Khasra Girdawries* etc., which could conclusively prove the factum of their individual possession. It is settled position of law that revenue entries carry a presumption of truth under Punjab Land Revenue Act and can be rebutted by leading cogent evidence. However, as observed earlier, there is no evidence to prove the individual cultivable possession of the petitioners/their predecessors. Thus, we have no hesitation in rejecting the first argument raised by counsel for the petitioners.

As far as the second argument is concerned, the same is also without any merit. It is seen that the entry showing petitioners/their predecessors in interest as tenant existed in the revenue record in the 1957-58 i.e. much before the Rules of 1964 were framed. Further, in case the said entries were wrong, the petitioners /their predecessors had full right to

challenge the same at that point of time. However, they consciously decided not to challenge such entries. This fact becomes significant in the backdrop of nature of claim raised by petitioners, which is of ownership. Logically, no owner would allow his status to be changed from an owners to a tenant and would sit quiet by not raising any hue and cry. Thus, applying this logic, we have again have no hesitation in holding that the petitioners/their predecessors were rightly recorded as tenants and, therefore, petitioners are estopped by their own Act and conduct (See Section 115 read with Section 116 of the Evidence Act) to claim ownership of land in question against the Gram Panchayat.

9. Coming to the judgments cited by learned Counsel for the petitioners before us, we are of the opinion that it is the settled proposition of law that peculiar facts and circumstances of each case are to be examined, considered and appreciated first, before applying any codified or judgemade law thereto. Each case is to be decided as per its own peculiar factual situation. Sometimes, difference of even one additional fact or circumstance can make the world of difference, as held by the Hon'ble Supreme Court in **Padmausundra Rao & Anr. Vs. State of Tamil Nadu & Ors. 2002(3) SCC 533**.

10. The facts of the instant case, as discussed in detail, leaves no manner of doubt that present matter was required to be adjudicated on facts. Thus, we do not deem it appropriate to delve into the facts of each and every case law cited before us and thereafter, distinguish/rely upon them, at all.

No other point was raised before us during the course of arguments.

In view of the above, finding no merit in both the above

mentioned writ petitions, the same are hereby dismissed.

(JASWANT SINGH)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

May 31st, 2019
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>