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

CWP No.27477 of 2019

Date of decision: September 25, 2019

Manjit Kaur and others ...Petitioners

Versus

State of Punjab and others ...Respondents

**Coram: Hon'ble Mr. Justice Rakesh Kumar Jain
Hon'ble Mr. Justice Arun Kumar Tyagi**

**Present: Mr. Ashok Goel, Advocate,
for the petitioners.**

Rakesh Kumar Jain, J.

The petitioners have challenged the orders dated 08.02.2018 and 16.01.2019, by which an application filed by respondent no.4 under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as the "Act") has been allowed against them.

Counsel for the petitioners has submitted that once the petitioners had challenged the title of respondent no.4, respondent no.3 should have converted the proceedings under Section 11 of the Act and after deciding the dispute regarding title of the suit land, he should have proceeded further in terms of Section 7 of the Act.

We have heard learned counsel for the petitioners and perused the available record with his able assistance.

The first proviso to Section 7 says that if a question of right, title or interest is raised by any person and a prima facie case is made out in support

thereof, then the Collector shall direct the person who has raised such question to submit his claim under Section 11 and till the question is so determined, the application shall remain pending. The second proviso to Section 7 says that if a person, who has raised the question of right, title or interest, fails to submit his claim under Section 11 of the Act within the time prescribed under that section, the Collector shall presume that no question of right, title or interest is involved and shall proceed further to put the Panchayat in possession of the land or other immovable property in the shamilat deh.

Thus, it is amply clear that the question of title is not only to be raised but also to be proved for the purposes of claiming declaration under Section 11 of the Act but in the present case, the petitioners have taken a self-contradictory plea in their reply filed to the application under Section 7 of the Act because in the preliminary objections, the petitioners have averred that they have become owners of the disputed land by way of adverse possession and in the paragraph on merits, it is averred that the land in dispute has been allotted to their predecessor-in-interest by the Gram Panchayat. Moreover, the petitioners have failed to bring on record any evidence, much-less *prima facie*, to prove that the land in question was ever allotted to their predecessor-in-interest by the Gram Panchayat because the allotment of land by the Gram Panchayat could only be through a resolution by the Gram Panchayat, therefore, in the absence of any *prima facie* proof of right, title or interest and the contradictory stand taken in the reply, referred to above, the agitation of the petitioners that the application filed under Section 7 by respondent no.4 should have been put on hold by respondent no.3 allowing the petitioners to file the regular suit under Section 11 of the Act is not made out.

In view of the aforesaid facts and circumstances, we do not find any merit in the present petition and hence, the same is hereby dismissed.

(Rakesh Kumar Jain)
Judge

September 25, 2019
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(Arun Kumar Tyagi)
Judge

Whether speaking / reasoned : Yes/No
Whether reportable : Yes/No