

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

CWP No.28090 of 2017(O&M)

Date of Decision:-10.01.2019

Gram Panchayat Huller.

.....Petitioner.

Versus

Director Village Development & Panchayat Department, Punjab & Ors.

.....Respondents.

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

Present:- Mr. S.S. Sodhi, Advocate for the Petitioner.

JASWANT SINGH, J.

Petitioner-Gram Panchayat Huller, has filed the instant writ petition seeking quashing of the order dated 13.08.2010 passed by Additional Deputy Commissioner-cum-Collector Hoshiarpur (P-3), whereby the claim raised by Tarsem Lal-private respondent no.5 seeking declaration under Punjab Village Common Lands (Regulation) Act, 1961 (for short 1961 Act), that he is owner in possession of one Kanal of land, was allowed; and order dated 22.01.2016 (P-5) passed by Commissioner, Punjab whereby the appeal of the Gram Panchayat has been dismissed.

Learned Counsel for the petitioner-Panchayat has argued that in pursuance to the order dated 12.12.2017 passed by Co-ordinate Bench of this Court, Gram Panchayat has placed on record documents Annexure P-6 to P-8, which goes on to show that the land in question falls outside the

abadi deh area of the Village and, therefore, the management and control over the land in question vests with the Panchayat. It has been further argued that the Authorities below have wrongly exercised the powers under Section 11 of the Act, 1961 while declaring the private respondents as the owners of the property in question, because the property is reflected as “*Jumla Mustarqa Malkan Wa Digar Haqdarar Hassab Rasad Zar Khewat*” in the jamabandis and, therefore, the findings returned are without jurisdiction.

We have scrutinized the arguments raised by learned Counsel for the petitioner and have perused the paper book. However, we are of the opinion that the instant writ petition is without any merit and, therefore, liable to be dismissed.

The documents Annexure P-6 to P-8, which have been placed on record by the petitioner-Gram Panchayat goes directly against the arguments raised by the Counsel for the petitioner. A perusal of the jamabandi for the year 2012-13 (P-6) clearly shows that land has been shown to be in possession of Tarsem Lal (respondent no.5-claimant) and the land in question is reflected as *Gair Mumkin Abadi*. Meaning thereby, the land in question was never reserved from any common purpose and in case it was, same has come within the *abadi* area of the village. Consequently, the Authorities below have rightly held that the land in question falls within the exceptions carved out under Section 2(g) of the 1961 Act and, therefore, private respondent no.5-Tarsem Lal is the owner of the property in question.

As far as the argument regarding the impugned orders being without jurisdiction is concerned, it is seen that no such plea was taken by the Panchayat before the Authorities below, therefore, there was any

occasion for them to consider this aspect. In any case, the Authorities below have rightly held that the land in dispute “does not fall in Gram Panchayat nor the Management and Control of the land in question vests with the Panchayat” and this finding does not suffer from any illegality, as the land being '*gair mumkin*' and '*abadi deh*', the panchayat exercises no control over the same. Had the land been reserved for any of the common purposes defined under the 1961 Act or the East Punjab (Consolidation of Land Holdings) Act, 1948, it would have been a different story. There is no proof that the land was ever reserved for any common purpose. Once that being so, the Authorities below were well within their powers to adjudicate the title of Panchayat/private respondent, and declare private respondent no.5 as the owner of the property in question.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

January 10, 2019
Vinay

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