

CR-8460-2018

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-8460-2018

Date of Decision: 10.01.2019

Peter @ Balraj Singh and another

... Petitioners

vs.

Lakhvir Singh and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Chanakya Batta, Advocate for
Mr. Parshotam Lal Singla, Advocate, for the petitioners.

Mr. Daldeep Singh Sukarchakia, DAG, Punjab.

AMOL RATTAN SINGH,J

Pursuant to the orders dated 13.12.2018 and 07.01.2019, Mr. Ajinder Kumar, stated to be a Tax Collector in the office of Block Development Panchayat Officer (BDPO), Nurmahal, currently having charge of the Administrator of Gram Panchayat, Pharwala, is present in Court.

Mr. Daldeep S. Sukarchakia, DAG, Punjab, on instructions from him submits that the land in question, as falls in *Khasra* no. 65, *Khatoni* no. 420, *Khewat* no. 328 (as per the *jamabandi* for the year 2014-15), consisting of 01 kanal and 19 marlas, has been described as *gair mumkin chhappar* (pond) and is therefore part of the village common land.

It is to be again noticed here that in a revision petition arising out of a civil suit, this Court would not have called for such kind of record which is actually to be led by way of evidence before the trial Court, however, that court, vide the impugned order, dismissed the application filed by the petitioner under Order 6 Rule 17 CPC, by which the khasra number of the said property was sought to be incorporated in the written statement, (as was contended to be public land/village common land). Hence, the Administrator had been directed to come present with the

CR-8460-2018

-2-

revenue record, to at least *prima facie* determine whether the contention of the petitioner is correct or not as regards the land being public land.

It having been stated by the Administrator that khasra No.65 at least to the extent of 01 kanal and 19 marlas, falling in the aforesaid khatoni and khewat numbers (as per the jamabandhi for the year 2014-15), is public land/village common land, this petition is allowed to the extent that the petitioners would be permitted to amend their written statement to incorporate therein the aforesaid khasra, khatoni and khewat numbers as regards the suit land, with no further comment made at all by this Court even with regard to whether it is actually proved to be village common land (or any other kind of land), or whether the respondent-plaintiff has any right or not to seek permanent injunction against the respondents qua the said khasra number, which would be all matters to be gone into by the trial Court on the basis of evidence led before it.

Consequently, the impugned order is set aside and the application filed under Order 6 Rule 17 CPC by the petitioners-defendants is allowed to the aforesaid extent, with only the aforesaid khasra, khatoni and khewat numbers (as per the *jamabandhi* for the year 2014-15), allowed to be incorporated in the written statement, with however it to be proved as per evidence led by both sides, as to whether the said khasra number forms part of any common land or not and if so, the effect thereof on the case of the parties to the suit.

Naturally, since an amendment in the written statement has been allowed by this Court, the respondent-plaintiff would have a right to file a replication thereto if he chooses to, with the matter to be thereafter proceeded with accordingly by the trial court.

10.01.2019
smriti/dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	: Yes/No.
Whether Reportable	: Yes/No