

212/3 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 26.02.2020

(i) CWP No.8957 of 2017(O&M)

Ashok

...Petitioner

Versus

State of Haryana and others

...Respondents

(ii) CWP No.8968 of 2017(O&M)

Ram Mehar

...Petitioner

Versus

State of Haryana and others

...Respondents

(iii) CWP No.8974 of 2017(O&M)

Krishan

...Petitioner

Versus

State of Haryana and others

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain
Hon'ble Mr. Justice Ashok Kumar Verma

Present: Mr. Surjit, Advocate for Mr. Rajbir Singh, Advocate
for the petitioner (In all petitions)

Ms. Kirti Singh, DAG, Haryana.

Mr. Vishwajeet, Advocate
for respondent No.4-Gram Panchayat.

Rakesh Kumar Jain, J. (Oral)

This order shall dispose of three writ petitions bearing CWP Nos. 8957, 8968 and 8974 of 2017. However, the facts are being taken from CWP No.8957 of 2017.

In short, respondent No.4 (Gram Panchayat) filed a petition under Section 7 of the Punjab Village Common Land (Regulations) Act,

1961 against the petitioner, which was allowed on 13.10.2016 and the appeal filed by the petitioner was dismissed on merits on 19.04.2017 in his absence.

Counsel for the petitioner has submitted that in view of the explanation appended to Order 41 Rule 17(1) of the Civil Procedure Code, 1908 the learned Appellate Court could have dismissed the appeal but not on merits in his absence.

In support to his contention, learned counsel for the petitioner has relied upon the decision of Hon'ble the Supreme Court rendered in **Ghanshyam Dass Gupta Vs. Makhan Lal 2012(4) R.C.R.(Civil) 282.**

Counsel for the respondents have not disputed the law laid down by the Hon'ble Supreme Court in **Ghanshyam Dass Gupta's case (Supra)** and have rather submitted that the impugned order passed by the Appellate Court be set aside and the case be remanded back to be decided on merits after hearing both the parties.

In view of the above facts and circumstances, the writ petitions are hereby allowed and the impugned order dated 19.04.2017 is set aside in all the three petitions and the matter is remanded back to the Appellate Authority to decide the lis between the parties after giving an opportunity of hearing to both the parties. Parties are directed to appear before the Appellate Authority on 23.04.2020.

[RAKESH KUMAR JAIN]
JUDGE

[ASHOK KUMAR VERMA]
JUDGE

26.02.2020
hemlata

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