

**115+208 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CM-1759-CWP-2020 in/and
CWP No.27050 of 2015(O&M)
Date of decision: 12.02.2020**

Gram Panchayat, Village Channo, Block Bhawanigarh, District Sangrur
through its Sarpanch

...Petitioner

Versus

State of Punjab and others

...Respondents

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

Present: Mr. H.S.Brar, Advocate, for the petitioner.

Ms. Ambika Sood, DAG, Punjab.

Mr. Vijay Sharma, Advocate
for respondent Nos. 4, 5, 7 to 13, 16 to 32, 34 to 42.

Mr. Jatinder Singla, Advocate
for the applicant/proposed respondent No.43.
(in CM No.779-CWP-2017 and CM-1759-CWP-2020)

Rakesh Kumar Jain, J. (Oral)

The present petition is filed at the instance of the Gram Panchayat, Village Channo, District Sangrur, against the order dated 02.12.2015 by which appeal filed by the private respondents against the decision of the Collector has been allowed.

In brief, the private respondents filed a suit under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 before the Divisional Deputy Director, Rural Development and Panchayat, Patiala (Exercising the powers of Collector). The said suit was dismissed vide order dated 15.09.2015 (Annexure P-1). The appeal filed by the private respondents before the Commissioner was allowed on 02.12.2015 (Annexure P-2). The petitioner has challenged the said order, inter alia, on the ground that since the land in dispute is recorded in the Jamabandi as

“Jumla Mushtarka Malkan”, therefore, the revenue Court had no jurisdiction to decide the lis between the parties about the title rather the private respondents should have approached the Civil Court for seeking a declaration of their title.

Learned counsel for the petitioner has relied upon the full Bench decision of this Court rendered in Civil Writ Petition No.2318 of 2002 titled as Parkash Singh and others Vs. Joint Development Commissioner, Punjab and others, decided on 08th November, 2013. Learned counsel for the private respondents has not raised any issue in regard to the nature of land as well as the law laid down by this Court. However, he has drawn our attention to an order passed by this Court on 2nd February, 2017 in the present writ petition, which read as under:-

“CM-779-2017

Notice of the application for impleadment of the applicant as party-respondents be issued to the non-applicant-petitioner for 24.07.2017.

CM-16209-2016

Notice qua the prayer for impleading the applicant as party/intervener be issued to the non-applicant-petitioner for 24.07.2017. As regard to the second prayer for modification of the order dated December 23, 2015, Union of India has taken a categoric stand that the entire land in dispute has been acquired for construction/widening of road. The stay order dated December 23, 2015 is therefore vacated and the Union of India is permitted to take over the possession of land in dispute for the above-stated purpose subject to deposit of the compensation amount in the Court of District Judge, who shall keep the same in the shape of FDR in a nationalised bank. The compensation shall be released in favour of the party who would be found entitled to as per law.

Adjourned to 24.07.2017.”

Both the counsel for the parties have submitted that the amount deposited by the National Highway Authority of India in respect of the land in question in the Court of District Judge and the said FDR lying in a nationalized bank be ordered to be given to the party who would ultimately be found entitled to it as per law. Counsel for the petitioner has not raised any objection in this regard.

In view of the aforesaid facts and circumstances, the writ petition is allowed, the orders passed by both the Courts below, in favour of both the parties i.e. of the Collector and the Commissioner are set aside being without jurisdiction and the parties are relegated to their remedy, if so advised, to avail, before the Civil Court. It is however, made clear that the amount deposited by the National Highway Authority of India in respect of the land, which has been acquired by the National Highway Authority of India, deposited with the District Judge, Sangrur shall remain deposited in the shape of FDR in a Nationalized Bank and the District Judge shall keep on renewing the FDR, earning the maximum rate of interest and the said amount shall be paid to the party becoming successful in the suit for title.

At this stage, the CM No.1759 of 2020 is also allowed as no objection has been raised in this regard by the counsel for the petitioner.

[RAKESH KUMAR JAIN]
JUDGE

[ASHOK KUMAR VERMA]
JUDGE

12.02.2020
hemlata

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