

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-19767-2020

Date of decision : 18.08.2021

Sunita and others

... Petitioners

Versus

State of Haryana and others

... Respondents

***CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA***

Present: Mr. Vikram Singh, Advocate
for the petitioners.

(Proceedings through Video Conferencing)

AUGUSTINE GEORGE MASIH, J.(ORAL)

Learned counsel for the petitioners has placed reliance upon jamabandi for the years 1909-10 onwards to contend that the predecessor-in-interest of the petitioners was always in possession of the land as *gair marusi*. His contention is that the finding recorded by the revenue authority that the petitioners have failed to place on record the documents to substantiate their rights as *gair marusi* is unsustainable. His further contention is that the land, which is in the possession of the petitioners, is recorded in favour of the petitioners by exception as provided in Section 4 (3)(2) of the Punjab Village Common Lands (Regulation) Act, 1961. He has further argued that the revenue record, which has been referred to above, was very much available before the authority and was exhibited, however, the Divisional Commissioner, Rohtak Division, Rohtak, while passing the

documents have been produced before the Courts.

Notice of motion.

At the asking of the Court, Mr.Raman Sharma, Addl. Advocate General, Haryana, accepts notice on behalf of the respondents.

On a categoric question put by this Court to the learned Addl. Advocate General as to how the order dated 16.05.2018 passed by the Divisional Commissioner, Rohtak Division, Rohtak, is sustainable in the light of the factual aspects mentioned in the order dated 26.10.2016 passed by the Collector, Rohtak (Annexure P-22) where the reference has been made to the revenue record and other documents, which were exhibited therein, he could not justify the findings as recorded by the Divisional Commissioner, Rohtak Division, Rohtak.

In the light of above, we set aside the order dated 16.05.2018 (Annexure P-24) passed by the Divisional Commissioner, Rohtak Division, Rohtak and direct the parties to appear before the said authority on 02.09.2021. The appellate authority shall thereafter proceed to decide the case afresh on the basis of records and submissions to be made by the parties.

The writ petition stands disposed of accordingly.

(AUGUSTINE GEORGE MASIH)
JUDGE

(ASHOK KUMAR VERMA)
JUDGE

August 18, 2021

Davinder Kumar