

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**CWP-12928-1995**

**Date of Decision: November 10, 2022**

**Mohinder Singh**

..... Petitioner

**Versus**

**Gram Panchayat of Village Rasulpur Kalan and another**

..... Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL  
HON'BLE MRS. JUSTICE RITU TAGORE**

Present: None for the petitioner.

Mr. C.L. Sharma, Advocate for respondent No. 1.

Mr. K.S. Kang, Sr.DAG, Punjab.

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**LISA GILL, J.**

Prayer in this writ petition is for setting aside order dated 08.06.1995 passed by Additional Director, Consolidation of Holdings, Punjab, Jalandhar, besides a declaration that Gram Panchayat Village Rasulpur Kalan, has no concern with the land in dispute and that right-holders are entitled to partition thereof.

It is claimed in the writ petition that khewat in question was constituted after imposing cut upon the right-holders. Land in question measuring 240 kanal 6 marlas situated in revenue limits of Rasulpur Kalan,

Tehsil Nakodar, District Jalandhar was Bachat land, owned by the proprietors of the village. Khewat of this land, it is stated, was constituted during consolidation by applying pro-rata cut on various right-holders. One Balwant and other right-holders of the village filed petition No. 82/68 under Section 42 of The East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (for short – ‘1948 Act’) before the Additional Director, Consolidation of Holdings, Punjab, Jalandhar for partition of the land in question. Said petition was decided on 04.12.1969 (Annexure P1) while holding as under:-

“ I have heard the parties and have seen the record. It appears that no area was reserved in favour of the Gram Panchayat by application of cut on the right-holders. Similarly, no area is found lying in Bachat in the village.

It is, however, seen that in Khewat No. 100,5387 shares have been created in favour of the right-holders of the village. But the area is actually in the cultivating possession of the Panchayat. This area was clearly obtained by application of cut on the right-holders, but since the possessions in this village were transferred on 28.2.1960, the ruling of the Supreme Court would not be applicable to this case, in accordance with the departmental instructions. It would, however, be open to the right-holders of the village to move the competent authority for the partition of the khewat or the ejectment of the Panchayat as the land still stands in their names jointly. The Panchayat is merely a tenant at will.”

Petition under Section 111 of the Punjab Land Revenue Act was filed by twenty eight (28) persons seeking partition of land measuring 321 kanal 7 marlas, which was allowed on 19.12.1973 by the Assistant

Collector First Grade, Nakodar. Appeal challenging the said order filed by the respondent – Gram Panchayat, was dismissed on 03.06.1977. It is averred that parallel proceedings were being conducted. The Collector forwarded the case to District Development and Panchayat Officer for adjudication under Section 11 of the Punjab Village Common Lands (Regulation) Act. This application is stated to have been rejected by the District Development and Panchayat Officer on the ground that as per decision of the Additional Director, Consolidation of Holdings, land in dispute does not vest in the Gram Panchayat.

Gram Panchayat then filed an appeal before the Joint Director, Panchayat, Punjab exercising the powers of Commissioner. This appeal was accepted vide order dated 08.08.1985 while holding that individual land owners cannot claim partition while further concluding that management and control of the land vests in the Gram Panchayat as per Section 23-A of 1948 Act.

In the meanwhile, appeal filed against order of partition by the Gram Panchayat was dismissed on 29.07.1974. Aggrieved therefrom, Gram Panchayat filed revision before the Commissioner (Appeals) Jalandhar Division, which was dismissed on 11.11.1983.

Revision petition was thereafter preferred by the Gram Panchayat before the Financial Commissioner (Revenue) Punjab, which was accepted while holding that land in dispute was assigned for common purposes during consolidation proceedings in the year 1960 under Section 18 and 23A of the 1948 Act. Management and control of this land vested with the Gram Panchayat, which had been giving the land on lease since 1960 and income therefrom was being utilised for common good of village

community. It was held that partition of joint holding militates against the provisions of Sections 18 and 23A of the 1948 Act and cannot be permitted, notwithstanding the entries of *Mushtarka Malkan* in the ownership column of jamabandi.

It is stated in the writ petition that petition under Section 42 of the 1948 Act filed by one Upkar Singh son of Charan Singh was allowed by the Director, Consolidation of Holdings, Punjab, Chandigarh on 13.11.1992 holding that revenue authorities had no jurisdiction to conclude that management and control of the land in question was of the Gram Panchayat or that the same vested with the Panchayat. The land being Bachat land, the right-holders were held entitled to partition thereof. Respondent – Gram Panchayat challenged exparte order dated 13.11.1992 on the ground that Gram Panchayat being a necessary and affected party should have been called upon and heard before passing of said order dated 13.11.1992. This petition was allowed on 12.08.1994. Order dated 13.11.1992 was set aside and the petition No. J-91/92 filed by Upkar Singh etc. was ordered to be heard afresh on merits. Said petition was then dismissed on 08.06.1995 while holding that any adjudication thereon would amount to review of order dated 04.12.1969 passed by the Additional Director, Consolidation of Holdings.

Present writ petition was, thus, filed challenging order dated 08.06.1995 with the averment that an anomalous and queer situation had arisen with dismissal of the petition filed by Upkar Singh with order dated 04.12.1969 left intact.

As per the averments in the writ petition, land in question is claimed to be vesting with the right-holders and not with the Gram Panchayat.

Written statement was filed in this case on behalf of the respondent - Gram Panchayat seeking dismissal of the writ petition. This writ petition was admitted on 02.07.1996 with no interim order being passed.

Learned counsel for the respondent – Gram Panchayat while referring to the judgment of the Hon'ble Supreme Court in **State of Haryana through Secretary to Government of Haryana versus Jai Singh and others AIR 2022 Supreme Court 1717**, submits that the controversy sought to be raised by the petitioner is conclusively set to rest. It is submitted that proprietors have no right to the land in dispute and it cannot revert to them under any circumstances. It is pointed out that it is a matter of record that the said land had been given on lease by the Gram Panchayat since 1960, therefore, no ground for any interference is made out.

Notice was issued to the petitioner as learned counsel representing the petitioner, was informed to have passed away.

As per office report, petitioner has since died. Legal representatives of the petitioner have not come forward to contest the matter.

Keeping in view the facts and circumstances as above and the fact that none of the legal representatives of the petitioner have come forward, we do not find any ground whatsoever for continuance of the present proceedings.

Writ petition is, accordingly, dismissed in default.

Liberty is, however, afforded to the legal representatives of the

petitioner to move an appropriate application within four weeks from today,  
in case, any incorrect fact has been placed before this Court.

Copy of this order be conveyed at the given address of the  
petitioner.

**(LISA GILL)**  
**JUDGE**

**(RITU TAGORE)**  
**JUDGE**

**November 10, 2022**  
rts

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