

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

Sr. No.126

**Civil Writ Petition No.5722 of 2022
DATE OF DECISION: May 09, 2022**

Surjit Singh and others

..Petitioners

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. A.P. Kaushal, Advocate, for the petitioners.

SUDHIR MITTAL, J. (ORAL)

The petitioners have been evicted in proceedings initiated under the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 (hereinafter referred to as the Act) from land comprised in Khasra No.42 min. in Village Jalalpur Khurd, Block Lohian Khas, Tehsil Shahkot, District Jalandhar. Their appeal has also been rejected and thus, the present writ petition has been filed.

Learned counsel for the petitioners has argued that the revenue record shows that the ownership of the land in dispute vests in '*mushtarka malkaan hasab rasad rakba khewat*'. This entry clearly establishes that the land is owned by the proprietors of the village. Possession is recorded with the general public and this establishes the fact that the petitioners have been in possession at least since 1963-64 as reflected in the jamabandi of the said year copy of which is on record as Annexure P-2. Thus, the proceedings

initiated under the Act were without jurisdiction as the Gram Panchayat is not the owner of the land in dispute.

Notice of motion.

Mr. Arun K. Kaundal, DAG, Punjab accepts notice on behalf of respondents No.1 to 3 and waives service.

Mr. R.S. Chauhan, Advocate with Ms. Deepika Chauhan, Advocate accepts notice on behalf of respondent No.4 and waives service.

Learned counsel for respondent No.4 submits that the jamabandi for the year 1963-64 copy Annexure P-2 clearly shows that the land in dispute was of a water channel. This entry has continued till the year 2014-15 when the nature of the land has been changed in connivance with the revenue officials. The fact that the land was of a water channel shows that the same was reserved for common purposes after imposing a pro rata cut. Such land vests in the Gram Panchayat as has been held in judgment dated 07.04.2022 passed by the Supreme Court in Civil Appeal No.6990 of 2014, ***State of Haryana Through Secretary to Government of Haryana vs. Jai Singh and others***. Thus, the proceedings under the Act were within jurisdiction. The petitioners deserved to be evicted as they have encroached upon land belonging to the Gram Panchayat.

The revenue record starting with the jamabandi for the year 1963-64 onwards records the land in dispute as '*mushtarka malkaan hasab rasad rakba khewat*' and the type of land is recorded as '*Gair Mumkin Nala*'. The jamabandi for the year 2014-15 recorded the type of land as '*chahi*' for the first time. It is, thus, evident that the land in dispute was utilized for common purposes after imposing a pro rata cut and such land comes within

the definition of '*shamilat deh*' as given under the Section 2(g)(4) of The Punjab Village Common Land (Regulation) Act 1961 as applicable to the Punjab (hereinafter referred to as the Punjab Act). Shamilat deh vests in the Gram Panchayat. Moreover, in the judgment of ***Jai Singh (supra)***, the Supreme Court has held that land reserved for common purposes irrespective of its description in the revenue record would vest in the Panchayat or the State. This finding has been given in the context of Full Bench judgment of this Court in ***Parkash Singh and others vs. Joint Development Commissioner, Punjab and others, 2013 SCC OnLine P&H 26809*** and thus, the finding is equally applicable to cases arising in the State of Punjab even though the said judgment arises from a case relating to the State of Haryana. Obviously, the land was a public premises and the Gram Panchayat had the authority to seek eviction of the petitioners under the Act. The argument raised on behalf of the petitioners is accordingly rejected.

In view of the above, the writ petition has no merit and is dismissed.

May 09, 2022

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned Yes

Whether Reportable Yes