

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

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**CR-2781-2019(O&M)
Date of Order: 02.04.2022**

STATE OF PUNJAB

..Petitioner

Versus

LAKHMIR SINGH AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Nikhil Chopra, Addl. A.G., Punjab.

ANIL KSHETARPAL, J(Oral)

The State of Punjab assails the correctness of order dated 27.09.2018, passed by the Additional District Judge, Mohali, in execution petition. Pursuant to compulsory acquisition of the land, the State has deposited Rs.6,21,23,664/- towards acquisition of the Gram Panchayat *deh* land, whereas, Rs.7,68,82,793/-, has been deposited towards *Jumla Mustrika Malkan* land. The Executing Court has directed the District Revenue Officer to furnish the shares of various claimants/proprietors of the Village Raipur Kalan in order to disburse the compensation of the acquired land with regard to the *Jumla Mustrika Malkan* land to the proprietors. The learned counsel representing the petitioner contends that in view of Section 42-A of the East Punjab (Consolidation of Holdings and Prevention of Fragmentation) Act, 1948 (hereinafter referred to as “the 1948 Act”), submits that the amount of compensation with respect to *Jumla Mustrika Malkan* land cannot be paid to the proprietors.

This Court while examining a connected issue with regard to the interpretation of Section 42-A of the 1948 Act, in **Civil Writ Petition No.9566 of 2021, titled as “Labh Singh and others Vs. State of Punjab and others”, decided on 07.06.2021**, held that the *Jumla Mustrika Malkan* land

has been derived after applying pro rata cut on the land holdings of the proprietors at the time of consolidation of holdings in accordance with Section 18 and 23 of the 1948 Act.

Rule 16 of the East Punjab (Consolidation of Holdings and Prevention of Fragmentation) Rules, 1949, the ownership of such *Jumla Mustrika Malkan* land which has been derived after applying pro rata cut on the land holdings of the proprietors shall not vest with the Gram Panchayat with respect to its ownership. In fact Rule 16(ii) itself provides that the land put in common use of the village under Section 18 of the 1949 Rules after applying pro rata cut shall continue to vest in the propriety body. Rule 16 of the 1948 Act is extracted as under:-

“16 (i) The area to be reserved for the common purpose of extension of abadi for proprietors and non-proprietors under S.18(c) of the Act shall be reserved after scrutinizing, the demand of proprietors desirous of building houses and of non- proprietors including Harijan families working as agrarian labourer who are in need of a site for house. The land reserved for extension of abadi shall be divided into plots of suitable sizes. For the plots allotted to proprietors nonproprietors including Harijan families these shall be allotted without payment of compensation and they shall be deemed to be full owners of the plots allotted to them.

(ii) In an estate or estates where during consolidation proceedings there is no shamlat deh land or such land is considered inadequate, land shall be reserved for the village Panchayat and for other common purposes, under section 18(c) of the Act, out of the common pool of the village at the scale prescribed by the Government from time to time 4 [at the scale given in the schedule to these rules-FOR Pb.] Proprietary rights in respect of land so reserved (except the area reserved for the extension of abadi of proprietors and non-proprietors) shall vest in the proprietary body of the estate or estates concerned and it shall be entered in the column of ownership of record of rights as (Jumla Malkan Wa Digar Haqdarani Arazi Hassab Rasad Raqba). The management of such land shall be done by the Panchayat of the estate or estates concerned on

behalf of the village proprietary body and the Panchayat shall have the right to utilise the income derived from the land so reserved for the common needs and the benefits of the estates concerned.”

In view thereof, no ground to interfere is made out.

Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

April 02nd, 2022
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(ANIL KSHETARPAL)
JUDGE

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