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

CWP-10741-2023

Date of decision:24.07.2023

MOHINDER SINGH

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. Nakul Sharma, Advocate
for the petitioner.

Mr. Maninder Singh, DAG, Punjab

SURESHWAR THAKUR, J. (ORAL)

1. The petitioner becomes aggrieved from Annexures P-6, and, P-9, annexures whereof are verdicts respectively drawn by the Collector concerned, and, by the Appellate Authority concerned, whereby the Statutory Authorities, proceeded to in respect of the disputed lands, decline the espoused declaratory relief to the present petitioner.

2. The learned counsel for the petitioner has very forcefully argued before this Court, that the impugned annexures, as, respectively carried in Annexures P-6 and P-9 are flimsily drawn, and/or, arise from a non-application of mind to the facts at hand, and to the evidence as became adduced before the Authorities below, besides he also argues, that there has been gross mis-application of law to both the facts and to the evidence, as, adduced before the

Statutory Authorities below. Therefore, he argues that the impugned annexures be quashed, and, set aside.

3. The above made argument is erected on the premise, that the predecessors-in-interest of the present petitioner were coming thus in independent cultivating possession of the petition lands, but prior to 1950, and, thereby they became entitled to the beneficent grace of Section 2(g)(viii), of The Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as “the Act of 1961”), provisions whereof become extracted hereinafter. In that regard he has drawn the attention of this Court to Annexure P-12, which is a jamabandi relating to the petition lands, and, appertains to the year 1943-44, and, thus is prior to the year 1950.

“2(g)(viii) was Shamilat deh was assessed to land revenue and has been in the individual cultivating possession of co-sharers not being in excess of their respective shares in such shamilat deh on or before the 26th January, 1950, or”

4. The above argument does not appeal to the judicial conscience of this Court, as the said entry is based on gross mis-appreciation of the jamabandi (supra). The reason being that in the column of ownership, as is carried in the jamabandi (supra), the owner of the suit land is reflected as *Shamlat Hasab Hissa*. However, the column of cultivation is empty and vacant.

5. Though, there is a rebuttable presumption of truth attached to the said entry, however, it appears, that no cogent or sound evidence became adduced at the instance of the petitioner, but before the Statutory Authorities below rather to bely the efficacy of the said entries. Therefore, for want of cogent evidence becoming adduced before the Statutory Authorities, thus for belying efficacy of entries (supra), thereupon, the said entry(ies) acquires conclusive, and, binding effect. Therefore, with the recorded limited status of the petitioner

or of his predecessors-in-interest, thus as *Gair Mumkin* over the petition lands, therefore, they were liable to be evicted from the petition lands.

6. Though the learned counsel for the petitioner argues, that irrespective of the fact, that the column of cultivation as appertains to the apposite jamabandi, does not mention the names of the predecessors-in-interest of the present petitioner, yet they were enlisted *Bartan Darans* in the list of *Bartan Darans*, thereby besides also in terms of the *Khatauni Istemal*, they were making lawful cultivations of the petition lands. However, in the above regard too, there is no evidence existing on record, especially qua prior to 1950 the present petitioner, but as *Bartan Darans* rather were making independent cultivating possession of the suit lands.

7. Therefore, the learned counsel for the petitioner yet cannot argue, that the petitioner is entitled to the beneficent grace of the apposite exclusionary clause to the definition of *Shamlat Deh*. Significantly, when in the column of ownership of the jamabandi (supra), the petition lands are disclosed to be owned by the *Jumla Hasab Hissa*.

8. In view of the above, this Court finds no merit in the petition(s) and, is constrained to dismiss the same. Hence, the petition is dismissed. Moreover, the impugned orders are maintained and affirmed.

(SURESHWAR THAKUR)
JUDGE

24.07.2023

Ithlesh

(KULDEEP TIWARI)
JUDGE

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