

CWP-15536-2018

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

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CWP-15536-2018

Date of Decision : May 24, 2023

RAJINDER SINGH AND ORS.

-Petitioners

V/S

STATE OF HARYANA AND ORS.

-Respondents

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

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

Mr. Raman Sharma, Addl. A.G., Haryana.

Mr. Aakash Singla, Advocate
for the respondent No.6.

SURESHWAR THAKUR, J.(ORAL)

1. It is not disputed amongst the contesting litigants, that the abadi of the Mohal concerned, was initially existing on Khasra No.79. Moreover, it is also not disputed amongst the contesting litigants, that subsequently the said abadi was shifted from Khasra No.79 to another Khasra No.80.

2. Even in the Jamabandi relating to the disputed lands, and, as appertains to the year 1941-1942, there occurs a reflection, that the abadi of the village is existing over an area of 54 Bighas 6 Biswas. However, subsequently as revealed by Annexure P-2, the gair mumkin abadi, as, existing initially over Khasra No.79, thus was declared as uninhabited, as the inhabitants of the abadis, in the earlier khasra number, had left the said abadis and had shifted their abadis to Khasra No.80. The dispute, which has emerged amongst the contesting litigants, stems from Annexure P-17, which

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is a letter endorsed by the Law Officer, Panipat, to the City Magistrate, Panipat, wherein there is a reference to vacant lands existing within sites designated as abadi deh, thus in terms of Section 2(g) of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as the 'Act of 1961'), rather vesting in the Panchayat deh, and, resultantly, attestation of mutation in respect of Khasra No.79, being requested to become entered in favour of the Panchayat deh concerned.

3. It appears, that the said Annexure became actioned upon, thus bringing grievance to the writ petitioners. It appears, that the entire focus of the arguments addressed today before this Court, by the learned counsel for the petitioners, is centered upon the fact, that since in the classification column of the relevant Jamabandi, there is still a reference of a gair mumkin abadi, thus existing on the abadi deh land. Therefore any order of mutation as becomes made in pursuance to Annexure P-17, is void, as it infringes upon the rights of the inhabitants of the erstwhile abadis, to yet maintain such abadis, as were earlier existing within Khasra No.79.

4. Even if the said entry is existing in the revenue records, and, even if assumingly, in pursuance to Annexure P-17, the open lands within the abadi, have been mutated in terms of Section 2(g) of the Act of 1961, thus in the name of the Panchayat deh concerned. Moreover, assumingly even if such erstwhile abadis, given theirs being now uninhabited, thus not bestowing any vestige of any right, title or interest in the erstwhile inhabitants thereof, to resettle therein, given theirs shifting their abadis to some other site. However, even if, on the above score, any argument is raised today before this Court, but since it devolves upon a disputed question of fact, relating to the above rights, if any, emanating thus from

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there yet being abadis existing on the erstwhile Khasra No.79, thereupon the said disputed question can neither be raised nor can be determined in the instant writ proceedings.

5. Furthermore, even if there is some vestige of any right, title or interest, in the erstwhile inhabitants of the abadis, existing on initial khasra No.79, yet even the said aspect cannot be determined by this Court, as the jurisdiction to make a determination in respect thereof is, at this stage, not vested in this Court, but is vested either in the Collector concerned or in the civil court concerned.

6. In consequence, this Court finds no merit in the instant writ petition and is constrained to dismiss it. Accordingly, the instant writ petition is dismissed, however, the above liberty is yet reserved to the petitioners. The impugned order is affirmed and maintained.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

May 24, 2023
devinder

Whether speaking/reasoned. : Yes/No
Whether Reportable : Yes/No