

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

(227)

**LPA-906-2020 (O&M)
Decided on : 28.02.2023**

Gram Panchayat Hardosaran

...Appellant(s)

Versus

State of Punjab & others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN**

Present: Mr.R.S.Manhas, Advocate for the appellant.

Mr.V.M.Gupta, Addl.A.G., Punjab.

G.S. Sandhawalia, J. (Oral)

1. The present appeal is directed against the order of the learned Single Judge dated 30.09.2020 passed in CWP-15227-2020 titled *Gram Panchayat Hardosaran Vs. State of Punjab & others* wherein the writ petition was disposed of by relegating the Gram Panchayat to the alternative remedies. The challenge in the writ petition was to the order dated 01.07.2020 by the Forest Division Officer, Pathankot wherein mutations were directed to be corrected in favour of the Forest Department.

2. The learned Single Judge noticed that there was remedy of filing petition under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short, the 'Act') claiming right, title and interest in land and there was a provision to file an appeal against the order passed. It was also noticed that regarding the change of mutation under Chapter IV of the Punjab Land Revenue Act, 1887 and under Section 36 of the said Act, the procedure is prescribed for determining the dispute with respect to mutation which had been enumerated and once the order is passed sanctioning mutation, there is a provision for filing an appeal

thereafter. It was accordingly noticed that it is the case of the Gram Panchayat that it was not covered by the notification dated 05.01.1904 whereby the land measuring 27550 acres was declared as forest area.

3. It was also further noticed that in two other litigations, the said issue had been decided in favour of the State that the entries in the revenue record of mutation in favour of the Forest Department was correctly done. Reference was made to CWP-8706-1988 titled *Rameshwar Nath and others Vs. State of Punjab and others* decided on 11.02.2014 (Annexure P-5), perusal of which would go on to show that it was pertaining to Village Tikka Dhung, Tehsil Pathankot District Gurdaspur.

4. It is further pointed out that in similar case in **Divisional Forest Office, Gurdaspur & others Vs. Gian Singh & others, 2015 (2) RCR (Civil) 346**, the matter was also decided in favour of the Forest Department and the learned Single Judge of this Court had set aside the findings recorded by the Courts below by noticing that under forest settlement reports, trees and forest produce vest in the State Government since times immemorial and is a natural resource and public property.

5. Mr.Manhas has argued that as per the said notification, Village Hardosaran has not been mentioned therein and therefore, as per the communication dated 11.09.2020 (Annexure P-12) which was a letter written by the Block Development and Panchayat Officer, Dhar Kalan to the Tehsildar the mutation had been entered wrongly on 04.09.2020 by the Patwari Halqa of the land measuring 1043 kanals 13 marlas pertaining to the said village.

6. It is settled principle that where there is an alternative and efficacious remedy available and where disputed questions are raised, the Writ Court would not go to the said issue. Reliance in this regard can be placed upon the judgment of the Apex Court in **United Bank of India Vs. Satyawati Tondon & others(2010) 8 SCC 110**. The principles laid down read as under:-

“30. The Court while exercising its jurisdiction under Article 226 is duty-bound to consider whether:

- (a) adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily resolved;
- (b) the petition reveals all material facts;
- (c) the petitioner has any alternative or effective remedy for the resolution of the dispute;
- (d) person invoking the jurisdiction is guilty of unexplained delay and laches;
- (e) ex facie barred by any laws of limitation;
- (f) grant of relief is against public policy or barred by any valid law; and host of other factors.

7. Specific area and the details of the land would necessarily have to be averred by the Gram Panchayat mutation of which has been changed and the ownership of which they claim. The learned Single Judge in such circumstances has rightly relegated the appellants to the concerned statutory authority which will necessarily examine the issue unfettered and unburdened by any instructions issued by the State of Punjab. The said authority would accordingly give a finding regarding the land which is sought to be wrongly declared ownership of which the Gram Panchayat claims in contrast to the notification issued on 05.01.1904 and the settlements made earlier in favour of the Forest Department if any such

proceedings are initiated by the appellant.

8. Accordingly, in view of the above discussion, the present appeal stands dismissed.

(G.S. SANDHAWALIA)
JUDGE

28.02.2023
sailesh

(HARPREET KAUR JEEWAN)
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No