

2023:PHHC:039552-DB

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

CWP-30703-2019 (O & M)

Reserved on: 25.01.2023

Pronounced on: 17.03.2023

Didar Singh and Others

.....Petitioners

Versus

State of Haryana and Others

.....Respondents

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

Argued by: Mr. Vikram Singh, Advocate
for the petitioners.

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

Mr. Sandeep Siwan, Advocate
for Gram Panchayat.

Mr. Amarjit Markan, Advocate
for respondents No. 5 and 6.

SURESHWAR THAKUR, J.

Factual Background.

1. The petitioners filed a petition bearing No. 51/13-A under Section 13 of the Punjab Village Common Lands (Regulation) Act, 1961, as applicable to the State of Haryana, (for short hereinafter call 'the 1961 Act') claiming therein, the relief that they be declared owners in possession of the suit lands. On the above petition, a dis-affirmative decision was made on 18.11.2016 by the learned Collector concerned.

The said verdict is appended to the petition as Annexure P-2.

2. The aggrieved petitioners made an appeal thereagainst before the learned Commissioner Ambala Division. The said appeal became assigned executive appeal No. 361 of 2016-17. However, through a decision made thereons on 12.06.2018, the learned Commissioner Ambala Division dismissed the appeal (supra), and, resultantly affirmed the order of dismissal, as became initially drawn by the learned Collector.

3. Being dissatisfied from the concurrent verdicts of dismissal, as, respectively made by the learned Collector concerned, and, by the learned Commissioner, Ambala Division, the petitioners preferred revision petitions thereagainst, before the learned Revisional Court. However, the learned Revisional Court finding no merit in the revision petitions hence dismissed them.

Submission of the learned counsel for the petitioners.

4. Though the learned counsel appearing for the petitioners has made a submission before this Court, that since in the revenue records, the petition lands become described as *Jumla Mustarka Malkan Wa Digar Haqdarani Hasab Rasad*. Therefore, he contends that the above revenue description, as made to the petition land, did save them from vestment in the *panchayat deh*. In making the above submission, he refers to Section 18 and Section 23-A of the pre-amended Act i.e. the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (East Punjab Act 50 of 1948), provisions whereof are extracted hereinafter.

***18. Lands reserved for common purposes. -
Notwithstanding anything contained in any law for the
time being in force, it shall be lawful for the Consolidation***

Officer to direct. - (a) that any land specifically assigned for any common purpose shall cease to be so assigned and to assign any other land in its place; (b) that any land under the bed of a stream or torrent flowing through or from the Shiwalik mountain range within the [State] shall be assigned for any common purpose; (c) that if any area under consolidation no land is reserved for any common purpose including extension of the village abadi, or if the land so reserved is inadequate, to assign other land for such purpose.

[23 A. Management and control of lands for common purposes to vest in Panchayats or State Government – As soon as a scheme comes into force, the management and control of all lands assigned or reserved for common purposes of the village under section 18, - (a) in the case of common purposes specified in sub-clause (iv) of clause (bb) of section 2 in respect of which the management and control are to be exercised by the State Government, Shall vest in the State Government; and (b) in the case of any other common purpose, shall vest in the Panchayat of that village; and the state Government or the Panchayat , as the case may be , shall be entitled to appropriate the income accruing therefrom for the benefit of the village community, and the rights and interests of the owners of such lands shall stand modified and extinguished accordingly: Provided that in the case of land assigned or reserved for the extension of village abadi or manure pits for the proprietors and non-proprietors of the village, such land shall vest in the proprietors and non-proprietors to whom it is given under the scheme of consolidation].

Inference of this Court.

5. Bearing in mind, the above statutory provisions, yet it is but apparent on reading of the order recorded by the learned Commissioner, Amabala Division, that in the finalized consolidation

operations, the suit lands became reserved for the common purposes, of the *panchayat deh*, and or, became reserved for the benefit of the entire village proprietary body. The finalized consolidation scheme hence making the above echoings has remained unchallenged nor is challengeable at this belated stage. Moreso, in the instant proceedings, for lack of the promptest permissible challenge, being thrown to the finalized consolidation scheme, especially qua its making(s) reservation(s) of the petition lands, for the benefit of the village proprietary body, but from the lands of the land owner concerned, who were but evidently holding cultivating possession of such lands rather outside the domain of their permissible lawful title thereons. Thus, the resultant therefrom conclusion is that, the suit lands were only meant for the benefit of the entire village community, and, as such, the petitioners do not hold any valid title thereto, either as owners or as individual cultivators, rather they can in accordance with the *wazib ul arz* hence enjoy the petition lands for common purposes alongwith the other *bartan darans* concerned.

Final Order

6. In consequence, this Court does not find any merit in the writ petition, and, with the above observations, the same is dismissed. The impugned orders are affirmed and maintained.

7. No order as to costs.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

17.03.2023

kavneet singh

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