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

(I)

CWP-27696-2022 (O&M)

Date of decision:24.07.2023

SHER SINGH

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

(II)

CWP-27740-2022

SHER SINGH

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

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

Present: Mr. Keshav Pratap Singh, Advocate
for the petitioner(s).

Mr. Maninder Singh, DAG, Punjab

Mr. Rai Singh Chauhan, Advocate and
Mr. Rohit Sapehiya, Adovcate and
Ms. Deepika Chauhan, Advocate
for respondent-Gram Panchayat.

SURESHWAR THAKUR, J. (ORAL)

1. Since both the writ petitions relate to the same suit lands/petition lands, thereby both the writ petitions are amenable for being decided through a common verdict.

2. The Gram Panchayat of village Dadial, Block Dasuya, District Hoshiarpur, through Sarpanch Balbir Singh, instituted a petition, embodied in Annexure P-1, on 15.07.2015 before the learned Collector concerned. The said petition was cast under the provisions of of Section 7 of The Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as “the Act of 1961”), and, thereby the eviction of the respondents therein from the petition lands, thus was asked for.

3. A reading of Annexure P-1 reveals, that after a detailed hearing being made, upon the pleadings raised in the said petition by the contesting litigants, and, also after appraisal of the evidence adduced thereon, by the litigants concerned, the learned Collector came to a conclusion, that the Gram Panchayat concerned, is the owner of land described in the relevant column of jamabandi, as *Shamlat Deh Hasab Rasab Khewat*. Moreover, the learned Collector concerned, also came to a conclusion, that since the defendants-respondents in the said petition, were unable to produce cogent evidence, thus depicting qua thus since prior to 1950, but through their predecessor-in-interest, theirs thus holding an independent cultivating possession over the petition lands, thus whereby they were unamenable for becoming granted the beneficent grace of the apposite exclusionary clause, to the definition of *Shamlat Deh* lands, as is carried in Section 2(g), provisions whereof are extracted hereinafter.

“g) “*Shamlat deh*” includes

(1) *Land described in the revenue records as Shamlat deh excluding abadi deh.*

(2) *Shamlat Tikkas,*

(3) *Land described in the revenue records as shamlat, Tarafs, Pattis Pannas and Tholas and used according to revenue records for the benefit of the village community or a part thereof for common purposes of village.*

(4) *Lands used or reserved for the benefit of the village, community including, streets, lanes, playgrounds, schools, drinking wells, or ponds within abadi deh or gora deh and*

(5) Land in any village described as banjar qadim and used for common purposes of the village, according to revenue records, but does not include land which:

3[Proviso.....]

4 [(i) becomes.....]

(ii) has been allotted on quasi permanent basis to displaced persons

(iii) has been partitioned and brought under cultivation by individual landholders before the 26th January, 1950.

(iv) having been acquired before the 26th January, 1950, by a person by purchase or in exchange for proprietary land from a co sharer in the shamilat deh and is so recorded in the jamabandi or is supported by a valid deed.

1[and is not in excess of the share of the co sharer in the shamilat deh.

(v) is described in the revenue records as Shamilat, Taraf, Patti Panna an Thola and not used; according to revenue records for the benefit to the village community or a part thereof or for common purposes of the village.

2 [(vi) lies outside the abadi deh and was being used as gitwar, bara manure pit, house or for cottage industry, immediately before the commencement of this Act].

3 (vii) is Shamilat deh.....]

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

4 [(ix) was being used as a place of worship or for purposes, subservient thereto, immediately before the commencement of this Act].”

4. Therefore, the learned Collector concerned, proceeded to make a verdict of eviction (Annexure P-1) against the respondents. The said order was appealed before the Competent Appellate Authority concerned, and, on the apposite statutory appeal, the latter proceeded to make a decision alike the one, as became made earlier by the learned Collector concerned. The said decision as made on the statutory appeal by the Competent Appellate Authority concerned, is appended, as Annexure P-2 to the instant writ petition. The said decision is assailed, at the instance of the aggrieved-petitioners before this Court.

5. Be that as it may, visibly the petitioners herein had also filed a declaratory suit under Section 11 of the Act of 1961, before the learned Collector concerned, wherein they espoused, that they be declared as owners, in possession of the suit lands. On the said declaratory suit, a decision was made on 29.01.2010 (Annexure P-1 in the second writ petition), by the learned Collector concerned, whereby the said claim was declined. However, the said decision, as made in the year 2010 though become appealed by the petitioner, as well as by the other respondents, who became impleaded, as such, in a petition under Section 7 of the Act of 1961. However, the learned Appellate Authority concerned, made a declining order on the apposite statutory appeal (Annexure P-2). The said order was made in the year 2011, but the same has remained unchallenged. The said concurrently made orders, declining the espoused declaratory relief to the petitioners-plaintiffs in the civil suit, thus, acquire conclusive, and, binding effect. Resultantly, the subsequent thereto instituted petitions for eviction hence by the Gram Panchayat concerned, for thereby seeking the eviction of the petitioner(s) from the petition lands, was but an able, and, befitting endeavour. Naturally so, as the Gram Panchayat concerned, became declared as lawful owner of the petition lands, thereby it became facilitated to seek the eviction of the petitioner(s) from the petition lands.

6. The concurrently made orders on the petition cast under Section 7 of the Act of 1961, both by the learned Collector concerned, and, latter by the Appellate Authority concerned, but require theirs being put to the most efficacious, and, promptest execution, as but clear from a reading of the CM-11711-CWP-2023, readings of contents whereof unfolds, that the said concurrently made orders of eviction, have resulted in the drawing(s) of warrants of possession, thus in pursuance to the filing of an execution petition by the Gram Panchayat concerned, before the learned Executing Court

concerned, whereafter the learned Executing Court concerned, after making an objective application of mind to the report of the Executing Court concerned, thus has made a conclusion, that the said warrants of possession, have been completely executed against the estates of the respondents-judgment debtors concerned. Subsequently, the petition lands were also put to public auction, and, the successful bidder has been granted lease(s) of the petition lands. Since it is also averred in the application (supra), that the grandson of the present petitioner is also one of the successful bidders in the public auction, as was conducted by the Competent Officer, thus in respect of the petition lands.

7. In consequence, this Court finds no merit in the petition(s), thus the petition(s) are dismissed. It is clarified that if any forged receipts are placed on record by the Gram Panchayat concerned, in favour of any lease money being deposited, before the Competent Authority, thereupon it is open to the petitioner to contest the said factum through availing appropriate proceedings in accordance with law.

8. Pending miscellaneous application(s), if any, stand(s), disposed of.

9. A photocopy of this order be placed on the file of other connected case.

(SURESHWAR THAKUR)
JUDGE

24.07.2023

Ithlesh

(KULDEEP TIWARI)
JUDGE

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