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

CWP-29998-2022

Date of Decision : 12.04.2023

AMRIK SINGH AND ANOTHER

.....Petitioners

Versus

DIVISIONAL DEPUTY DIRECTOR PANCHAYAT CUM
COLLECTOR PATIALA AND OTHERS

....Respondents

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

Present : Mr. Rai Singh Chauhan, Advocate with
Mr. Rohit Sapehiya, Advocate and
Ms. Deepika Chauhan, Advocate
for the petitioners.

Ms. Monika Jalota, Sr. DAG, Punjab.

Mr. Jasjeet Singh Dhaliwal, Advocate
for respondent No. 2-Gram Panchayat.

SURESHWAR THAKUR, J. (Oral)

1. The Gram Panchayat, Village Chathe, Tehsil Nabha, District Patiala through its Sarpanch, has instituted a title suit under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short 'the 1961 Act'). The said title suit is enclosed in Annexure P-5, wherein, the petitioners appearing before this Court, were impleaded as respondents. The declaratory title, as claimed in the said title suit, was in respect of the khasra numbers, as become detailed in the head note of the title suit.

2. However, during the pendency of the said title suit, the petitioners herein, respondents therein, had moved an application to which

Annexure P-6, is assigned, wherein, they claimed that some of the properties as were included in the title suit were not either owned or possessed, by the Gram Panchayat nor they were *shamlat deh* lands, rather they were the private properties of the applicants, inasmuch as, they were the ancestral coparcenary properties of the applicants. The said ancestral coparcenary properties of the applicants, are stated in Annexure P-6, to become comprised in Khasra No. 17//3(7-3), 4/1 (3-6), 6/2 (0-19), 7 (9-6), 8/1 (5-0), 8/2 (3-0), 9/1 (3-12), 9/2 (3-19), 12/1 (3-16), 12/1 (4-4), 13 (8-0), 14/1 (5-10). However, the learned Collector concerned, through the drawing of Annexure P-7, had proceeded to dismiss the said application.

3. A reading of the dismissal order, as made on the said application, order whereof is enclosed in Annexure P-7, discloses, that the learned Collector concerned, did in a most perfunctory manner proceed to make a dismissal order on the said application. Contrarily, it was but required from the learned Collector concerned, to make a thorough examination of the records, and, to also decipher therefrom whether, as a matter of fact, the above stated khasra numbers rather claimed to be possessed by the petitioners, not on anvil, of theirs seeking the benefit of the apposite exclusionary clauses relating to excluding the said lands from the definition of *shamlat deh* lands, but claimed to be possessed by the applicants, through their predecessor in interest, either through an order of mutation of inter state succession being made in their favour, or through a mutation order being made hence in pursuance to a testamentary disposition being executed in their favour.

4. As stated above, there is no explicit finding in respect thereof, rather recorded in the impugned order. Therefore, a mere

statement in the impugned order, that after examination of the records, the

Collector concerned, had made a conclusion that the entire lands, which are the subject matter of petition under Section 11 of 'the 1961 Act', were *shamlat deh* lands, and as such were amenable for a decree of declaration being made, in respect thereof, by him, rather at this stage, is but a completely erroneously drawn conclusion, and, is required to be set aside.

5. Consequently, the impugned order Annexure P-7, is quashed and set aside, and the learned Collector concerned, is directed to after making a thorough assessment of the records of rights, make a conclusion, whether, as a matter of fact, the contention raised in Annexure P-6, is a valid contention or is not a valid contention.

6. The Remandee Court is directed to after hearing all affected persons concerned, make a prompt fresh lawful decision, on the said application, and, subsequently, he may proceed to exclude such khasra numbers from the title suit, and, may only include only those khasra numbes in the title suit, which fall within the ambit of *shamlat deh* lands, and, in respect whereof, the title suit of the Gram Panchayat concerned, may be amenable to become decreed but in accordance with law.

7. Disposed of.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

12.04.2023
kavneet singh

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