

CWP-4956-1999 (O&M)
Date of Decision: 12.03.2024

Versus

....Respondents

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Mr. S.P.Soi, Advocate and
Mr. Animesh Sharma, Advocate
for respondent No.3.

Sureshwar Thakur, J. (Oral)

1. Learned counsel appearing for the parties before this Court are *ad idem* that the concurrently made verdicts of eviction as respectively embodied in Annexure P-8 and in P-10, are devoid of jurisdictional competence becoming vested in the statutory authorities, who made them, as they become recorded by the Authority constituted under the Punjab Village Common Lands Act, 1961 (hereinafter in short to be referred as ‘the Act of 1961’), whereas, qua jumla mushtarka land, the relevant motion was to be laid before the Authority envisaged under the Punjab Gram Panchayat (Common Purposes Lands) Eviction and Rent Recovery Act, 1976 (hereinafter in short to be referred as ‘the Act of 1976’).

2. Moreover, they are *ad idem* that the jurisdictional competence to make an adjudication upon a petition of eviction in respect of lands detailed in the revenue records as '*jumla mushtarka malkan*', rather becomes vested in the statutory authorities contemplated under the Act of 1976.

3. Accepting the above made submissions before this Court by counsel for the petitioner and the counsel for the Gram Panchayat concerned, this Court after accepting the writ petition proceeds to quash the impugned annexures, but leaving liberty to the Gram Panchayat concerned, to forthwith institute a petition under the relevant provisions of the Act of 1976, before the competent authority as contemplated therein. The said eviction petition shall be ensured to be lawfully decided, but within three months from its preferment but after hearing all the affected persons concerned.

4. This Court while making the above conclusion finds support from the judgments rendered by this Court, in case titled as "Ashwani Kumar and others v/s Director, Rural Development and Panchayats, Punjab and others" and "Lakhbir Singh and another v/s State of Punjab and another", to which becomes respectively assigned Civil Writ Petition No.4789 of 2013 and Civil Writ Petition No.15332 of 2014. The decisions made on the said civil writ petitions, expostulate that in respect of lands detailed in the revenue record, as '*jumla mushtarka malkan*', thus the jurisdiction to make an adjudication upon the eviction petition becomes vested not in the authority constituted under the Act of 1961, but becomes vested in the authority constituted under the Act of 1976.

5. Disposed of accordingly along with all pending applications, if any.

(SURESHWAR THAKUR)
JUDGE

12.03.2024
Varinder Prashad

(LALIT BATRA)
JUDGE

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