

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

**CWP-29506-2023**

**Date of decision : 19.01.2024**

**Narinder Singh and others**

**.....Petitioners**

**versus**

**Joint Development Commissioner, Punjab and others .... Respondents**

**CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

**\*\*\***

Present :- Mr. Rai Singh Chauhan, Advocate and  
Mr. Rohit Sapehiya, Advocate  
for the petitioners.

Ms. Akshita Chauhan, DAG, Punjab.

Mr. Sandeep Kumar, Advocate  
for respondent No.3/caveator.

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**RAJESH BHARDWAJ, J.**

Prayer in the present petition is for quashing the order dated 14.11.2023 (Annexure P-13) passed by respondent No.1 i.e. Joint Development Commissioner, Punjab (Exercising the Powers of Commissioner) and order dated 05.08.2022 (Annexure P-6) passed by respondent No.2 i.e. District Development and Panchayat Officer, Pathankot vide which the eviction of the petitioners have been ordered under Punjab Public Premises (Rent Eviction) Act, 1973 of land measuring 0 kanal 11 marla, which is recorded as a Jumla Mushtarqa Malkan and thus, the impugned orders have been illegally passed, which are not sustainable. Further prayer has been made that the impugned orders be set aside and the application filed by the Gram Panchayat-respondent No.3 (Annexure P-4) for the eviction of the petitioners under Sections 4 & 5 of the Punjab Public Premises Act, 1973 relating to land

measuring 0 kanal 11 marlas comprised in Khewat No.652/584, Khatoni No.871, Khasra No.273 situated in Village Narot Mehra, H.B. No.201, Tehsil and District Pathankot may be rejected and the case be remanded below for decision afresh.

It has been contended by counsel for the petitioners that as per the revenue record i.e. Jamabandi 2018-19, the petitioners have been recorded as owners in possession of land comprised in Khasra Nos.185, 267 and as mortgagee in Khasra No.274/2. He submits that the land comprised in Khasra No.273 measuring 0 kanal 11 marlas was recorded as *Jumla Mushtarqa Malkan* and as Gair Mumkin Abadi Area and even the school has also been constructed which is running for the last more than 50 years. He submits that hence for all intents and purposes, the land comprised in Khasra No.273 does not vest with the Gram Panchayat and the same belongs to the proprietors of the Village. It is submitted that the suit land was never reserved for common purposes during the consolidation and the area which is recorded as Gair Mumkin Abadi does not fall within the definition of Section 2 of the Punjab Public Premises and Land (Eviction & Rend Recovery) Act, 1973. He has submitted that despite all this, the Gram Panchayat i.e. respondent No.3 filed an application under Sections 4 and 5 of the Punjab Public Premises Act, 1973 for eviction of the petitioners from the suit land which was not maintainable as the Gram Panchayat had admitted that the suit land was recorded as *Jumla Mushtarqa Malkan*. He has submitted that the petitioners duly contested the application filed for their eviction by contending that the application was not maintainable as the suit land did not vest with the Gram Panchayat and was never reserved for the common

purposes of the Village. He has further submitted that the land was vested with the proprietors. It is submitted that learned Collector without appreciating the same, allowed the application filed by the respondent-Gram Panchayat vide impugned order dated 05.08.2022 by directing the eviction of the petitioners. He has submitted that learned Collector has totally exceeded his jurisdiction in passing the eviction order dated 05.08.2022. It is submitted that aggrieved by the said order, petitioners filed the appeal under Section 9 of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 before respondent No.1-Joint Development Commissioner, Punjab. However, respondent No.1 appreciated the evidence on record and the law settled and dismissed the same by way of passing the impugned order dated 14.11.2023. He submits that the impugned order passed is totally cryptic and being without jurisdiction is totally unsustainable in the eyes of law. He submits that the land being *Jumla Mushtarqa Malkan*, application filed by the respondents-Gram Panchayat was not maintainable under the Act and thus, the impugned orders being without jurisdiction, deserve to be *set aside*.

Respondent No.3-Gram Panchayat is on caveat and Mr. Sandeep Kumar, Advocate has put in appearance on behalf of caveator and has opposed the contentions raised by counsel for the petitioners and has stated that on the application under Sections 4 and 5 of the Punjab Public Premises Act, 1973 filed by respondent No.3, eviction of the petitioners from the suit land has been rightly ordered as the suit land belongs to Gram Panchayat and the petitioners were in unauthorized possession of the same and the same was meant for common

purposes of the Village under the Management and Control of Panchayat. He has further submitted that the demarcation of the suit land was conducted and it was found that the present petitioners were in illegal and unauthorized possession of the same. He has further stated that the orders impugned herein have been passed correctly and are liable to be upheld and the present petition deserves to be dismissed.

Learned State counsel has also opposed the submissions made by counsel for the petitioner and has stated that the petitioners were found to be in unauthorized possession of the Gram Panchayat land and as such, they were rightly ordered to be evicted therefrom. She has further stated that the present petition deserves to be dismissed as there is nothing wrong with the orders impugned herein.

Heard. After hearing counsel for the petitioners and perusing the record, it is apparent that the main argument raised by counsel for the petitioners before this Court is that the land in dispute is *Jumla Mushtarqa Malkan* and the same does not vest in the Panchayat but vest in the proprietors. It is also submitted that the Gram Panchayat has constructed the school near the suit land which is running for the last more than 50 years. Thus, it is evident that the nature of the land being *Jumla Mushtarqa Malkan* as per the revenue record is not under dispute. Thus, as per Section 23A of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act 1948, land recorded as *Jumla Mushtarqa Malkan* vested with the Panchayat. The authorities appreciated the demarcation report dated 15.06.2021 and it was found that the petitioners had illegally planted the Garden of Litchi in the suit land. Nothing on record has been produced by the petitioners which could

prove their ownership qua the land in dispute. The land being *Jumla Mushtarqa Malkan* as per the law settled is managed by the Panchayat. Thus, in the considered opinion of this Court, there is no infirmity in the impugned orders passed by both the authorities below directing the eviction of the petitioners. Resultantly, the petition being devoid of any merits is hereby dismissed.

19.01.2024  
m. sharma

( RAJESH BHARDWAJ )  
JUDGE

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