



201

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

CWP No.16886-1996(O&M)

Date of decision: 18.08.2025

GRAM PANCHAYAT HUSSAINPURA

... PETITIONER

Versus

MEHAR SINGH AND OTHERS

... RESPONDENTS

**CORAM:- HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJIV BERRY**

Present:- Mr. V.K. Sandhir, Advocate and
Mr. Sukhninder Singh, Advocate
Ms. Navreet Kaur, Advocate, for the petitioner.

Mr. Vipin Pal Yadav, Addl. AG, Punjab.

SANJIV BERRY, J.

1. The instant writ petition under Section 226/227 of the Constitution of India has been preferred by the petitioner- Gram Panchayat for issuance of the order/writ especially in the nature of Certiorari for quashing of the orders dated 14.09.1995 (Annexure P-1) and 20.12.1994 (Annexure P-2) passed by respondents No.2 and 3 and for restraining respondent No.1 from changing the nature of Khasra No.176 (0-4) by raising any sort of construction etc.

2. In *nutshell* the case of the petitioner is that the suit property is owned by the petitioner-Gram Panchayat which is under unlawful possession of the respondent No.1 as such they had filed petition under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred



to 'the Act of 1961') which was dismissed by the Collector vide order dated 20.12.1994 (Annexure P-2). Appeal against the aforesaid order was also dismissed by the Joint Development Commissioner (IRD) Punjab, exercising the powers of Commissioner vide order dated 14.09.1995 (Annexure P-1). Aggrieved therefrom, the present writ petition has been preferred by the petitioner -Gram Panchayat.

3. Learned counsel for the parties have been heard.

4. The main contention of the learned counsel for the petitioner is that the property in question vested in Gram Panchayat, is being in illegal occupation of respondent No.1. As such, the petitioner-Gram Panchayat was entitled to get the same from respondent No.1 by ejectment therefrom, but the authorities have wrongly and illegally decided the petition by holding that the property in question does not fall under Section 2(g) of the Act of 1961, which is manifestly wrong, as such, the findings being beyond the jurisdiction are liable to be set-aside.

5. After perusing the record and also the impugned orders, it transpires that the stand taken by the petitioner-Gram Panchayat had been to the effect that Gram Panchayat is the owner of the land in question which has been under illegal occupation of the respondent No.1, necessitating his ejectment therefrom for which the petition under Section 7 of the Act of 1961 had been filed before the Collector, which was dismissed vide order dated 20.12.1994 (Annexure P-2). Subsequent appeal before the Commissioner was also dismissed vide order dated 14.09.1995 (Annexure P-1).

6. The perusal of the impugned orders passed by the Competent Authority under Section 7 of the Act of 1961 would reveal that it has



categorically been held therein that from the perusal of the revenue record i.e. Jamabandi since 1958-59, 1963-64, 1973-74, 1978-79, the possession of the respondent No.1 has been recorded therein and the type of the land has been mentioned as “*Gair Mumkin Abadi*” and on the basis thereof, the Commissioner while passing the impugned order (Annexure P-1) came to the conclusion that the consistent entries in the revenue record show the disputed land as “*Gair Mumkin Abadi*” and does not fall in the definition 2(g) of the Act of 1961.

7. Relevant para of Section 2(g) of the Act of 1961 is reproduced here as under:-

“2 (g) “*shamilat deh*” includes-

- (1) *lands described in the revenue records as shamilat deh excluding abadi deh;*
- (2) *shamilat tikkas;*
- (3) *lands described in the revenue records as shamilat, Tarafs, Pattis, Pannas and Tholas and used according to revenue records for the benefit of the village community, or a part thereof or for common purposes of the village;*
- (4) *lands used or reserved for the benefit of the village, community including streets, lanes, playgrounds, school, drinking wells, or ponds within abadi deh or gorah deh, and*
- (5) *lands in any village described as banjar qadim and used for common purposes of the village, according to revenue records.*

xxx

xxx

xxx”.

8. The perusal of the aforesaid Provisions leaves no ambiguity as to the legislative intent to the effect that the land within ‘*Abadi Deh*’ is excluded from ‘*Shamilat Deh*’ except to the extent as provided under Section 2(g) of



the Act of 1961. It is not the case of the petitioner that the property in question is a land used or reserved for the village community including the streets, lanes, playgrounds, school, drinking wells, or ponds within the '*Abadi Deh*' or '*Gorah Deh*'.

9. The finding recorded in the impugned order by the Commissioner is based on the consistent entries in the revenue record of the period 1958-59, 1963-64, 1973-74, 1978-79, holding the land in question to be '*Gair Mumkin Abadi*' with the respondent No.1 to be in possession thereof. Simply because in the revenue record the name of the petitioner-Gram Panchayat is recorded as owner, is by itself not sufficient to hold that the possession of the respondent No.1 is illegal. There is consistent findings of the Authorities under Section 7 of the Act that the disputed land being '*Gair Mumkin Abadi*' does not fall within the definition of Section 2(g), as such respondent No.1 cannot be ejected therefrom. The concurrent finding recorded by the Collector as well as the Commissioner under Section 7 of the Act of 1961 does not suffer from any infirmity so as to call for any interference by this Court in the present petition. As a consequent the instant writ petition is hereby dismissed.

10. All the pending miscellaneous applications, if any, are also disposed of.

(SANJIV BERRY)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

Dated: 18.08.2025

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i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No