

(1996) 12 P&H CK 0071
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 2477 of 1982

Gram Panchayat

APPELLANT

Vs

The State of Haryana and Others

RESPONDENT

Date of Decision : 11-12-1996

Acts Referred:

Citation : (1997) 115 PLR 550 : (1997) 2 RCR(Civil) 541

Hon'ble Judges : Sat Pal, J

Bench : Single Bench

Advocate : C.L. Ghai and Dinesh Ghai, for the Appellant; Hari Pal Verma, DAG, for the Respondent

Final Decision : Allowed

Judgement

Sat Pal, J.—By this judgment, I am disposing of five writ petition bearing Nos. 2475 of 1982, 2604 of 1982, 5351 of 1982, 5007 of 1984 and 5008 of 1984, as the points of fact and law involved in all these petitions are similar. For the purpose of judgment, the facts of CWP No. 2475 of 1982 are being taken.

2. Briefly stated, the facts of the case are that the petitioner-Panchayat is in possession of the Shamlat Deh land bearing Khata No. 299 Treasuring 626 Kanals 10 Marias, situated in village Kherri. It has been averred in the petition that the said land is Shamlat Deh in terms of the definition of Shamlat Deh as stated in the Punjab Village Common Land (Regulation) Act, 1961, as applicable to the State of Haryana. It has been prayed in the petition that the order/action of the respondent-State divesting the petitioner of the above mentioned land be quashed.

2. In the written statement filed on behalf of the respondents, it has been stated that the land in disputed belonged to a Muslim proprietors who had migrated to Pakistan and this land vested in the State under the provisions of the Administration of Evacuee Property Act. It has also been stated in the written statement that this land was wrongly mutated in favour of the Gram Panchayat.

In the written statement, the respondents have also relied on a Division Bench judgment of this Court reported in the Gram Sabha and Gram Panchayat Daba v. The Chief Settlement Commissioner and Ors. 1973 PLJ 398.

3. I have heard the learned counsel for the parties. The point involved in this case now stands concluded by a judgment of the Hon''ble Supreme Court in the case of Gram Panchayat of Village Jamalpur v. Malwinder Singh and Ors. 1985 P.L.J. 463. In this case the Hon''ble Supreme Court held that the Punjab Village Common Land (Regulation) Act being a measure of agrarian reform is conducive to the welfare of the community and as such the provision of this Act would prevail so far as Shamlat Deh land is concerned. It will be relevant to point out that in this case the Hon''ble Supreme Court specifically overruled the law laid down by this Court in the case of Gram Sabha and Gram Panchayat Daba. (supra).

4. For the reasons recorded herein above, the writ petition are allowed and it is held that the Shamlat Deh land mentioned in the writ petitions shall vest in the petitioner-Gram Panchayat and the custodian shall have no power to deal with the said Shamlat Deh lands, in any manner. The parties are, however, left to bear their own costs.