

(1986) 01 P&H CK 0009

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 581 of 1982

Gurmej Singh and Others

APPELLANT

Vs

Gram Panchayat, Budhlada, Tehsil Mansa and Other

RESPONDENT

Date of Decision : 13-01-1986

Acts Referred:

Punjab Village Common Lands (Regulation) Act, 1961 — Section 2, 2(g)

Citation : (1986) 01 P&H CK 0009

Hon'ble Judges : P.C. Jain, J;I.S. Tiwana, J

Bench : Division Bench

Advocate : Anand Swaroop for Mr. Manoj Saroop and Mr. G.C. Dhual, for the Appellant; J.C. Verma, for the Respondent No 1., Mr. D.N. Rampal and Mr. D.R. Puri, for the Respondent No. 4., for the Respondent

Judgement

J.S. Tiwana, J.—Appellant's title to Khasra No. 782 (measuring 4 Kanals 2 Marias) in the revenue estate of village Budhlada, which concededly as per the Jamabandi is recorded in the name of the Gram Panchayat Budhlada has been negatived by the learned Single Judge vide his judgment dated December 10, 1981, now under appeal. Their claim was that since their predecessor-in-interest Kulwant Singh along with an associate of his was possessed of this land with the construction of a Kotha therein some time before May 4, 1961, the said land could not be held to be Shamlat Deh as per the provisions of Section 2 Clause (9) Sub-clause 5 (vi) of the Punjab Village Common Lands, (Regulation) Act, 1961 (for short, the Act"). As per this provision, which defines Shamlat Deh, land which lies outside the Abadi Deh and was being used as gitwar, Bara manure pit house or for cottage industry immediately, before the commencement of this Act shall not be Shamlat Deh. This claim of theirs has been refuted by the learned Single Judge, with the following observations:-

Though a number of contentions are raised by the learned Counsel for the Petitioner, the foremost among them, which alone I propose to deal with, is that on the findings of the revenue officers in the impugned orders Annexures "B"and

"C", the land could not be taken out from the purview of Shamlat Deh as the possession of Respondent No. 3 had to be established prior to 25th January, 1950 In support thereof he relies on a Division Bench judgment of this Court in Lakhi Ram v. The Cram Panchayat, Gudah, 1968 P L R. 196. The matter is so crystal clear that the learned Counsel for Respondent No. 3 is at loss to defend the interests of his client since they do not date back to the crucial period which takes out land from the ambit of Shamlat Deh.

2. Having heard their learned Counsel, we find it Impossible to disagree with the learned Single Judge.

3. All that is being contended by the learned Counsel for Appellants is that since Kulwant Singh was a Biswadar or a proprietor in the revenue estate of Budhlada and came into possession of the above noted land prior to the date of the enforcement of the Act i.e. May 4, 1961, the said land could not be treated as Shamlat Deh for the purposes of the Act and thus the order of ejectment passed against him by Assistant Collector Ist Grade was totally without jurisdiction and was rightly upset by the appellate and revisional authorities vide their orders Annexures "B" and "C" We, however, find that while making this submission the learned Counsel completely ignores the provisions of Section 3(i) of the Act which lays down that "this Act shall apply, and before the commencement of this Act the Shamlat land shall be deemed always have applied, to all lands which are Shamlat Deh as defined in Clause (g) of Section 2" Shamlat law as per Clause (h) of this section means "in relation to the lands situated in the territory immediately before November 1, 1956 was comprised in the State of Patiala and East Punjab States Union, the Pepsu Village Common Lands (Regulation) Act, 1954".

4. Concededly Shamlat Deh was not defined in 1954 Act. A reading of the above-noted provisions together makes it abundantly clear that Section 3(i) of the Act has given retrospective effect to the definition of Shamlat Deh as contained in Clause (9) of Section 2 of the Act and as per this provision only such land shall be deemed to have been Shamlat Deh for purposes of 1954 Act prior to the coming into force of the Act (after January 9. 1954) which falls within the definition as contained in Section 2(g) of the Act irrespective of the fact that such land could or could not be held to be Shamlat Deh under 1954 Act prior to the passing of the Act. Exactly similar view has been expressed by the Division Bench in Lakhi Ram's case (supra) in the light of certain earlier decisions of this Court In this state of law and in the absence of a finding about Appellants possession prior to January 9, 1954, the land in question obviously fall within the definition of Shamlat Deh and has rightly been so recorded in the ownership of the Panchayat.

5. We, thus see no merit in this appeal and dismiss the same but with no order as to costs.

Sd- Prem Chand Jain, C. J.