
(2014) 11 SHI CK 0089
In the High Court Of Himachal Pradesh
Case No : R.S.A. Nos. 454 and 510 of 2003

Madho Ram

APPELLANT

Vs

Makholi Ram

RESPONDENT

Date of Decision : 05-11-2014

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 80

Citation : (2014) 11 SHI CK 0089

Hon'ble Judges : Sureshwar Thakur, J

Bench : Single Bench

Advocate : Sanjeev Kuthiala, Advocate and Vivek Singh Attri, Dy. A.G, Advocate for the Appellant; Ajay Sharma, Sanjeev Kuthiala, Advocates and Vivek Singh Attri, Dy. A.G, Advocate for the Respondent

Judgement

Sureshwar Thakur, J.—Both the above noted appeals are directed against the judgment and decree, rendered on 1st September, 2003, in Civil appeals No. 19-D/XIII-02 and 20-D/XIII-02, by the learned District Judge, Kangra at Dharamshala, whereby the learned First Appellate Court dismissed the appeals, preferred by the appellants/defendants and affirmed the judgment, rendered on 29.12.2001 by the learned Sub Judge 1st Class (II), Dharamshala, District Kangra, H.P. These appeals are being disposed of by a single judgment as they arise out of a common judgment.

2. Brief facts of the case are that the plaintiff had instituted a suit for declaration to the effect that the plaintiff is owner in possession of suit land comprising Khewat No. 88, Khatauni No. 125 and Khasra No. 764/362, measuring 0-10-11 Hectares of Jamabandi 1994-95 of Mohal Thamba, Mauza Ghiana Kalan, Tehsil Dharamshala and the defendants have no right, title or interest to interfere in the suit land in any manner whatsoever in the ownership and possession of plaintiff with consequential relief of permanent injunction.

3. The plaintiff has alleged that the suit land is owned and possessed by the plaintiff as per Jamabandi for the years 1994-95. The plaintiff is in cultivating

possession of the suit land and the defendant No. 1 has initiated some proceedings against the plaintiff and threatening to dispossess the plaintiff from the suit land. The proceedings have been initiated at the instance of defendants No. 2 to 4 who are very influential persons. It is also stated that the plaintiff has applied for the allotment of the suit land to defendant No. 3 and after due inquiries by the official of the defendant No. 1 the plaintiff was finally allotted the suit land measuring 0-10-11 Hectares comprising Khasra No. 362/2 by defendant No. 1 on 14.11.1981 and a certificate of allotment was issued on 14.11.1981. The plaintiff deposited the amount of Rs. 24/- qua the allotment on 1.12.1981. The plaintiff occupied the suit land on 14.11.1981 as the possession was given to the plaintiff by defendant No. 1 without any interference from anybody. It has come in the notice of the plaintiff that vide order dated 26.5.1997, the Additional District Magistrate, Kangra, at Dharamshala, exercising the powers of Commissioner under the Himachal Pradesh Village Common Lands Vesting and Utilization Act, 1974 has cancelled the allotment of the suit land. The said order is illegal, without authority, null and void and is liable to be set aside. It is stated that there are no "Kuhals" in the suit land and there is no play ground of the school in the suit land and the local people of the area also did not use the suit land. The mango fruit trees were planted by the plaintiff in the year 1981. There are no "Sare-Am-Rasta" in the suit land and there is no drinking water/spring in the suit land. The plaintiff was never summoned by the Commissioner under the aforesaid act. The plaintiff falls within the definition of landless person. Hence, the order passed by the Additional District Magistrate, Kangra at Dharamshala on 26.5.1997 for cancellation of the land is illegal, null and void. Hence, the suit.

4. The State, defendant No. 1 therein, filed the written statement taking preliminary objections of locus-standi, estoppel, maintainability, suit is time barred, no cause of action, suit is bad for non-joinder of necessary parties, suit is not properly valued, suit is bad for issuance of legal notice under Section 80 CPC and the Court has no jurisdiction under Section 10 of the H.P. Village Common Lands Act, 1974. On merits, it is pleaded that the plaintiff was allotted land from Khata No. 114, Khatauni No. 164, Khasra No. 352/2 measuring 0-10-11 Hectares situated in Mohal Thamba Mauza Khaniara under the H.P. Village Common Lands Vesting and Utilization Act, 1974 on 14.11.1981. However, the plaintiff got the land mutated in his name vide mutation No. 175 of 23.10.1994 after the gap of 15 years in the year 1995. He started cultivating the land and on 17.6.1995, the residents of the village came to know about the alleged allotment and they by way of representation to the Deputy Commissioner objected to the alleged allotment as the land is used as a path and other common passages. Secondly, three "Kuhals" pass through the said suit land which irrigates the agricultural land of the Mohal and the land is also used by the children of the Primary School, Thamba, Barnala, Kaned as a play ground. On such representation, a detailed inquiry was got conducted by the Tehsildar Dharamshala who found the objection of the residents are well founded and submitted her report to Deputy Commission on 14.7.1995. Thereafter, proceedings were initiated against the

plaintiff by the Commissioner and after hearing the plaintiff and objectors, allotment of the suit land was cancelled with direction to allot some other suitable land to the plaintiff. Objections qua jurisdiction, cause of action, limitation, non-joinder of necessary parties, valuation and maintainability were also raised.

5. Defendants No. 2 to 4 by way of separate written statement claimed existence of two Kuhals, three paths, passing through the suit land and that school is located adjoining the suit land. It is being used as a play ground by school children and plaintiff obtained wrong allotment of the suit land in his favour in papers only. After such allotment, he never took possession of the land. When they came to know of allotment, approached Deputy Commissioner for cancellation and consequently Tehsildar Dharamshala visited the spot and recommended cancellation. Cancellation order is claimed to be legal and valid.

6. The plaintiff filed replication to the written statement of the defendants, wherein, he denied the contents of the written statement and re-affirmed and re-asserted the averments made in the plaint.

7. On the pleadings of the parties, the learned trial Court struck following issues inter-se the parties in contest:-

1. Whether the plaintiff is owner in possession of the suit land, as alleged? OPP
2. Whether the plaintiff is entitled for the consequential relief of injunction? OPP
3. Whether the suit of the plaintiff is within time? OPP
4. Whether the suit of the plaintiff is not maintainable? OPD
5. Whether the plaintiff is estopped from filing the present suit by his act and conduct? OPD
6. Whether this Court has no jurisdiction to try the present suit? OPD
7. Whether the suit of the plaintiff is bad for non-issuance of notice under Section 80 CPC? OPD
8. Relief.

8. On appraisal of the evidence, adduced before the learned trial Court, the learned trial Court decreed the suit of the plaintiff. In appeal, preferred before the learned first Appellate Court, against the judgment and decree of the learned trial Court, the learned first Appellate Court affirmed the findings, recorded by the learned trial Court and consequently, it affirmed the judgment and decree passed in favour of the plaintiff by the learned trial Court.

9. Now the defendants have instituted the instant Regular Second Appeals before this Court, assailing the findings recorded by the learned first Appellate Court in its impugned judgment and decree. When the appeals came up for admission on 24.3.2006, this Court, admitted both the appeals instituted by the defendants

against the judgment and decree rendered by the learned first Appellate Court, on, the hereinafter extracted common substantial question of law:-

1. Whether in view of the provisions of Section 10 of the H.P. Village Common Lands Vesting and Utilization Act, the civil Court did not have the jurisdiction to try and decide the suit?

Substantial Questions of Law No. 1:

10. Mr. Sanjeev Kuthiala, Advocate, appearing for appellants/defendants No. 2 to 4 and Mr. Vivek Singh Attri, learned Deputy Advocate General, appearing for the State have conjointly submitted before this Court that the findings rendered by the learned Courts below on issues No. 3, 4 and 6 necessitate interference by this Court. They succinctly submit that the suit land was allotted in favour of the plaintiff-respondent in the year 1981. The order of cancellation of grant of the suit land in favour of the plaintiff/respondent, rendered by the learned Additional District Magistrate-cum-Commissioner under the Himachal Pradesh Village Common Land Vesting and Utilization Act, 1974, comprised in Ext. D-16. Ext. D-16 is anvil upon the power vested in the Commissioner under Clause 13 of the H.P. Village Common Lands Vesting and Utilization Scheme, 1975, which relevant clause is extracted hereinafter:-

"13. (1) Any person aggrieved by an order, of Collector or any other authority competent to make such order, may within thirty days from the date of such order, or such longer period as the Commissioner may allow for reasons to be recorded in writing prefer an appeal in write the Commissioner.

Explanation:- In completing the period of thirty days, the time taken in obtaining the copy of the order appealed against shall be excluded.

(2) An such appeal being preferred, the Commissioner may order stay of further proceedings in the matter pending decision on the appeal.

(3) The commissioner shall decide the appeal after giving the parties an opportunity of being heard and if necessary, after sending further record of the case from the Collector and after making such inquiry as he thinks fit either personally or through the Collector.

(4) if at any time, it comes to the notice of the Commissioner either through an application made by any person or otherwise, that the allotment of any land under this Scheme was made to a person who was not entitled or eligible for such allotment or the allotment was wrong on any other grounds, he may call for the record of the case and after making such enquiries as he thinks proper either in person or through a Revenue Officer subordinate to him and after giving an opportunity to the parties concerned, he may cancel the grant of land and make such other orders in connection therewith as he deems necessary in the circumstances of the case."

11. Sub-clause (4) thereof vests jurisdiction and authority in the Commissioner

to "at any time" cancel the grant of suit land on an application made to him by any person manifesting therein the fact that the allottee was not entitled to or ineligible for allotment or that the allotment was wrong on any other grounds. However, such cancellation of grant is to be preceded by an inquiry and the affording of an opportunity of being heard to all affected.

12. In view of the fact that the allotment of the suit land was made in favour of the plaintiff-respondent in the year 1981 and the said allotment came to be rescinded in the year 1994 that hence it is contended by the learned counsel for the plaintiff that the import and purport of the phraseology "if at any time" occurring in Sub-clause (4) of Clause 13 of the H.P. Village Common Lands Vesting and Utilization Scheme, 1975 cannot be inordinately stretched to facilitate the Commissioner exercising the powers to cancel any allotment of land made by the competent authority to proceed to cancel it in the year 1994, especially when the grant/allotment of the suit land was made in favour of the plaintiff respondent in the year 1981. True it is that the power vested in Sub-clause 4 of Clause 13 of the H.P. Village Common Lands Vesting and Utilization Scheme, 1975 authorizing or empowering the Commissioner to rescind the grant or allotment of land made in favour of the plaintiff-respondent was exercisable "at any time". So also it is true that the import and purport of the phraseology "at any time" cannot be given the connotation of it having an untrammelled or unrestricted limit qua time, besides the said power obviously is to be exercised within a reasonable time. However, the reasonableness of time within which the power of rescission or cancellation of allotment of land made by the competent authority in favour of the allottee, who is the plaintiff-respondent, is exercisable, is also to be adjudged from the stand point of the time when knowledge of the grant was acquired by the persons affected by the grant. If the persons affected by the grant, hence, proceeded to seek revocation or cancellation of grant within a reasonable time from the date of theirs having acquired knowledge of the grant in favour of the allottee, then the power of cancellation exercised by the authority vested with such a power acquires the colour of validity, inasmuch, as it having been exercised within a reasonable time. The acquisition of knowledge by the defendants-appellants qua the factum of allotment or grant of the suit land having been made in favour of the plaintiff-respondent was acquired or was gained by them on attestation of mutation of allotment of the suit land in the year 1994. As such when the affected persons or persons aggrieved by the grant who are the residents of Mohal Ghiana Kalan, Tehsil Dharamshala, having immediately on acquisition of knowledge qua the grant or allotment of the suit land in favour of the plaintiff-respondent, which acquisition of knowledge arose on the attestation of mutation of allotment of the suit land recorded in favour of the plaintiff-respondent in the year 1994 and theirs in quick spontaneity on 14th July, 1995 instituted before the competent authority a representation/complaint for cancellation of the grant of the suit land, which complaint sequelled the elicitation of a report from the Tehsildar existing at page 263 of the Paper Book on which report of the Tehsildar, the order rescinding the allotment of the suit

land in favour of the plaintiff-respondent comprised in Ext. D-16 was rendered, all cumulatively constitute facts which portray that neither there was any indolence or inertia on the part of the villagers of Mohal Ghiana Kalan, Tehsil Dharamshala District Kangra, to, on acquisition of knowledge qua the allotment of the suit land in favour of the plaintiff-respondent come to agitate their grievances before the competent authority nor also it can be concluded that when though the import of the phrase "if at any time" existing in sub-clause 4 of Clause 13 of the H.P. Village Common Lands Vesting and Utilization Scheme, 1975 does not ipso facto communicate that it contemplates an untrammelled or unrestricted period of time for the authority concerned to cancel the grant, that the exercise of power of rescission is not within a reasonable time. Rather, given the fact that the exercise of power to cancel grant "at any time" is to be read in context with and in entwinement with the proven fact of promptitude or quick spontaneity within which the affected persons proclaim their grievances qua allotment reckonable from the date of acquisition of knowledge by them of the purported untenable grant of the suit land made in favour of the plaintiff-respondent. Consequently, given the fact that the connotation borne by the phraseology "at any time" existing in sub-clause 4 of Clause 13 of the H.P. Village Common Lands Vesting and Utilization Scheme, 1975 inherently bespeaks of the power of cancellation of grant of the suit land being exercisable by the competent authority within a reasonable time to be adjudged from the date of acquisition of knowledge by the persons affected by the grant, as such, when from the date of acquisition of knowledge by the affected persons of the grant of the suit land in favour of the plaintiff-respondent which arose on the date of attestation of mutation of allotment of the suit land in favour of the plaintiff-respondent in October, 1994 theirs having in the year 1995 proclaimed their grievances, cannot, either render their act to be procrastinated or elongated so as to interdict them to seek its rescission nor also the amplitude of the plenary powers vested in the authority concerned envisaged in sub-clause 4 of Clause 13 of the H.P. Village Common Lands Vesting and Utilization Scheme, 1975 can be said to be either circumscribed or curtailed it having proceeded to exercise the power of rescission even when the affected persons despite having knowledge qua its grants even prior to attestation of mutation of allotment of the suit land in favour of the plaintiff-respondent in the year 1994 having then not moved the authority concerned for its rescission or cancellation. Even otherwise, there is no material on record to portray that the persons affected by the grant had prior to the attestation of mutation of allotment of the suit land in favour of plaintiff respondent had acquired knowledge qua its grant in favour of the plaintiff-respondent. For lack of said evidence, it is to be aptly concluded that they acquired knowledge of the allotment of the suit land in favour of the plaintiff-respondent only in the year 1994. Furthermore, the communication by the Tehsildar in his report submitted to the Deputy Commissioner, Kangra on an application moved by the villagers of Mohal Ghiana Kalan for cancellation of grant communicates/records certain pertinent facts sequelled by an inspection of the suit land by him in the presence of the aggrieved as well as the plaintiff-

respondent devolving upon the factum of the plaintiff-respondent having not prior to 1994 committed any overt act upon the suit land so as to then equip the defendants/appellants with the requisite knowledge qua the allotment of the suit land in his favour and theirs despite having acquired knowledge earlier, omitted to seek cancellation of the suit land. The preponderant fact, as recorded in the report, furnished by the Tehsildar existing at Page 263 of the Paper Book, is rather of the plaintiff-respondent only after attestation of mutation of allotment of the suit land recorded in his favour in the year 1994 having then commenced to proceed till or cultivate the suit land. The aforesaid fact, constrains this Court to record an inference that when the plaintiff-respondent commenced to cultivate or till the suit land only after attestation of mutation recorded in the year 1994 he had not cultivated it earlier. The inference gains fortification in the face of the fact of it having been founded upon the presence of both the aggrieved and the allottee who is the plaintiff-respondent during the course when the Tehsildar carried out an inspection of the suit land. As a corollary, when the fact, aforesaid, as elucidated in it, are founded upon the factum of it being recorded or it being unraveled in the presence of the persons aggrieved as well as in the presence of the allottee of the suit land, as a sequel then when no evidence cogent and weighty has been adduced by the plaintiff-respondent that the manifestation, aforesaid, in the report of the Tehsildar is unworthy of credence. Consequently, the factum, as divulged in the report of the Tehsildar of the plaintiff-respondent having not commenced cultivation of the suit land prior to the year 1994, attains conclusiveness and forestalls as well as estops the plaintiff to claim that prior to year 1994 he has commenced cultivation of the suit land. The further concomitant is that it estops the plaintiff-respondent to now contend that prior to 1994, he had tilled or cultivated the suit land. With the formation of the above deduction, the ensuing corollary is that the plaintiff-respondent omitted to utilize the land earlier so as to proclaim to the affected persons the factum of his having allotted the suit land. Naturally then, the concomitant inference is that the persons affected by the grant remained unaware of the grant or hence did not acquire knowledge of its grant, as such, were dis-empowered to at a stage earlier than 1995, seek its cancellation by moving the authority concerned. Even though the plaintiff-respondent has in his deposition proclaimed that he has utilized the suit land earlier and his acts of utilization bestowed knowledge or conferred knowledge upon the affected persons of its allotment in his favour and theirs having omitted to assail the grant earlier before the authority concerned estops them now at an inordinate stage to seek its rescission. However, the above deposition is benumbed by the report of the Tehsildar as also it stands benumbed by the fact of omission on the part of the plaintiff-respondent to adduce the best evidence comprised in the Khasra Girdawaris qua the suit land prior to year 1995 and their enunciating the factum of plaintiff-respondent having utilized the land earlier. For their non adduction, the clinching conclusion, hence is that the plaintiff-respondent had not utilized the land earlier than 1994 rather had utilized the suit land only after attestation of mutation of allotment of the suit land in his favour. Therefore, the acquisition of knowledge by the

affected persons by the allotment as portrayed by them to have been acquired only on the recording of the attestation of mutation of allotment in favour of the plaintiff-respondent and its subsequent cultivation by the allottee in the year 1994 acquires an aura of truth and remains un-prevaricated.

13. It is hence held with aplomb that the rescission of the allotment recorded in Ext. D-16 is not out side the period of limitation rather when the power of rescission or cancellation of allotment of the suit land in favour of the plaintiff-respondent has been mandated to be exercisable "at any time" by the authority concerned, exercise whereof is to be done within a reasonable time, to be viewed from the date of acquisition of knowledge by the persons affected by the grant/allotment of the suit land in favour of the plaintiff-respondent. Consequently, when given the clinching fact of the persons affected by the grant having acquired knowledge of its grant/allotment only in the year 1994, theirs having ventilated their grievance qua its grant in the year 1995, which sequelled the rendition of the report of the Tehsildar in the year 1995 and ultimately consummated in the order of rescission comprised in Ext. D-16, is within limitation. The findings recorded by the learned Courts below on the issue relating to limitation hence is liable to be reversed and set-aside.

14. Furthermore, the learned counsel for the plaintiff-respondent contends that the statutory bar envisaged in Section 10 of the H.P. Village Common Lands Vesting and Utilization Act, 1974 ousts the jurisdiction of Civil Courts to adjudicate upon any order rendered by the Collector or State Government or any Officer authorized by it under the provisions of the Act. However, true it is that the provisions of Section 10 of the Act, which are extracted herein-after, exclude the jurisdiction of the Civil Courts to adjudicate upon any order rendered by the authorities concerned relating to allotment of land/grant of land made in favour of any beneficiary under the provisions of the Act, which reads as under:-

"10. Bar of Jurisdiction:- Save as otherwise expressly provided in this Act, no order made by the Collector or the State Government or any officer authorized by it, as the case may be, shall called in question by any Court or before any officer or authority."

15. However, it is also settled law that the statutory prohibition engrafted in Section 10 of the Act against the Civil Courts exercising the jurisdiction qua subjects explicitly enunciated in Section 10 does not ominously usurp the jurisdiction of Civil Courts to test the legality of orders rendered by the officer concerned while exercising powers vested in H.P. Village Common Lands Vesting and Utilization Scheme, 1975. Rather, it is settled law that the civil Courts would continue to retain jurisdiction or would be vested with jurisdiction to test the legality of or adjudicate upon any order rendered by any authority concerned exercising powers under the H.P. Village Common Lands Vesting and Utilization Scheme, 1975. In the event when such orders, as rendered by any authority concerned under the aforesaid Act, are permeated with the vice of infraction of principles of natural justice or are also beyond jurisdiction. Therefore, it was

incumbent upon the learned counsel for the plaintiff/respondent to establish that the orders comprised in Ext. D-16 are vitiated with an infirmity inasmuch as they have been rendered in transgression of the principles of natural justice inasmuch as preceding its rendition, the plaintiff/respondent had neither been summoned nor participated, hence, was condemned unheard. However, with an explicit communication Ext. D-16, of the plaintiff/respondent having been summoned and his having been afforded an opportunity of being heard prior to the rendition of Ext. D-16, as such, in face thereof and when for displacement of the explicit enunciation aforesaid in Ext. D-16, no evidence to the contrary has been adduced by the plaintiff/respondent. Consequently, an invincible conclusion which fosters is that there is no force or weight in the submission of the learned counsel for the plaintiff/respondent that preceding to the rendition of Ext. D-16, the plaintiff/respondent had neither been served nor had participated in the proceedings preceding the rendition of Ext. D-16. Nor also he can contend that it is vitiated while it having been rendered behind his back or his having come to be condemned unheard. In sequel, Ext. D-16 remains un-vitiated. Consequently, when this Court has formed the conclusion that the order comprised in Ext. D-16 is not vitiated for transgression of principles of natural justice at the instance of the authority who has rendered it. The sequel thereof is that it foments an inference that hence the saving or excepting principle to the statutory bar against the exercise of jurisdiction by the Civil Courts qua the subject matters explicitly enshrined in Section 10 of the H.P. Village Common Lands Vesting and Utilization Act, 1974 remains unattracted. Consequently, the Civil Courts had no jurisdiction to test the legality or adjudicate upon the vires of pronouncement rendered by the competent authority in Ext. D-16. As a sequel, the findings rendered by the learned trial Court qua the maintainability of the civil suit before the civil Court and its having jurisdiction are set aside. Furthermore, the learned counsel for the plaintiff/respondent has also contended that the order comprised in Ext. D-16 has been rendered by an Officer not vested with the jurisdiction to render it, inasmuch, as, it has not been rendered by a "Commissioner" who is the authority vested with the jurisdiction under the H.P. Village Common Lands Vesting and Utilization Scheme, 1975 to exercise the powers vested under Sub-Clause (4) of Clause 13 of the H.P. Village Common Lands Vesting and Utilization Scheme, 1975, for rescinding or canceling a grant made in favour of an allottee. However, the said submission, too, is rudderless in face of the statutory meaning attributed to the term "Commissioner" in Section 2bb of the Act, which is extracted herein-after:-

"Commissioner" means the Commissioner, Himachal Pradesh and includes an officer appointed as such by the State Government."

16. The signification which is apparent on a reading of the phraseology "Commissioner" who is the competent authority to rescind or cancel a grant, is of the designation, aforesaid comprising the Commissioner, Himachal Pradesh and its also including an officer appointed as such by the State Government. When the plaintiff/respondent had omitted to adduce, cogent, potent and best evidence

comprised in adduction of a notification apposite, to rendering a determination that the proclamation by the officer who rendered Ext. D-16 of his having rendered Ext. D-16, while his exercising the powers of Commissioner under the H.P. Village Common Lands Vesting and Utilization Scheme, 1975, is legally unwarranted and fictitious. Its non adduction sequels the inference that the reflection in Ext. D-16 by the officer who rendered Ext. D-16 of his having rendered it while exercising the powers of Commissioner under the H.P. Village Common Lands Vesting and Utilization Scheme, 1975 is a true portrayal of his being, as a matter of fact, an officer appointed as Commissioner within the signification borne by the word "Commissioner" as defined in Section 2bb of the H.P. Village Common Lands Vesting and Utilization Scheme, 1975. Consequently, even if he was Additional Deputy Commissioner and not a "Commissioner", yet when hence he is to be construed to be an officer who has been empowered as a Commissioner to exercise the powers vested in a "Commissioner" under sub-clause (4) of Clause 13 of the H.P. Village Common Lands Vesting and Utilization Scheme, 1975, the orders of cancellation or revocation of grant comprised in Ext. D-16 cannot be construed to be without jurisdiction having been rendered by an officer not empowered to render it.

17. Lastly, the learned counsel for the plaintiff-respondent has contended that since it is un-controverted that he was both entitled to as well as eligible for the grant, besides when the further ground contemplated in sub-clause (4) of Clause 13 of the H.P. Village Common Lands Vesting and Utilization Scheme, 1975 for revocation of the grant by the Commissioner, inasmuch as of it being revocable on "any other grounds" was un-available inasmuch as when the land allotted to the plaintiff-respondent stood or existed in the allotable pool, its de-allotment was unwarranted. However, a deep and incisive perusal of the report of the Tehsildar, existing at page 263 of the file of the trial Court reflects that the persons aggrieved by the grant had proclaimed their grievances against its allotment in favour of the plaintiff-respondent on the strength of it being used by them for the purposes as divulged in it as well as in the order comprised in Ext. D-16 which purposes constitute public purpose. In sequel, when the ambit of the phraseology "any other ground" on which anchorage the Commissioner was competent to rescind it is extendable to encompass de hors eligibility or entitlement of the plaintiff-respondent for the grant or the allotment of the suit land, also the implicit and inherent rights/interests of the larger village body in the suit land when proven to be liable to be prejudiced, jeopardized as well as affected in case the allotment of the grant of the suit land remains un-rescinded. Consequently, when the communications in the report of the Tehsildar on which Ext. D-16 is founded, unravels the fact of the land being available for use for advancing larger public interest, which unfoldment therein remain un-controverted, as a sequel, it has to be concluded that the suit land was meant for being used by the village community, hence, they have entrenched interests in its being preserved for the protection of their inherent community rights in it which rights would get eroded in case the allotment is not decided. Therefore,

cancellation or rescission of the allotment of the suit land in favour of the plaintiff-respondent on the score that if not rescinded, public interest would be jeopardized, does comprise a sufficient "any other grounds" envisaged in sub-clause (4) of Clause 13 of the H.P. Village Common Lands Vesting and Utilization Scheme, 1975, for hence vesting in the authority concerned on its implicit proof, as exists in Ext. D-16, the power to cancel it. Therefore, even if the suit land was in the allotable pool, yet for saving and preserving it for public interest, its de-allotment or rescission was tenably done.

18. For the foregoing reasons, both the appeals are allowed and the judgments/ decrees, rendered by the learned Courts below, are set aside. The suit of the plaintiff is dismissed. The substantial question of law is answered accordingly. No order as to costs.

19. Pending application(s), if any, also stand disposed of.