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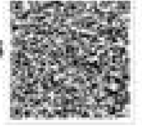

**In the High Court of Punjab and Haryana at Chandigarh**

**1.** **CWP No. 28866 of 2022 (O&M)**
**Reserved on: 3.4.2025**
**Date of Decision: 09.4.2025**

Gram Panchayat Bhudian ......Petitioner

Versus

State of Haryana and others .....Respondents

**2.** **CWP No. 29007 of 2022 (O&M)**

Gram Panchayat Bhudian ......Petitioner

Versus

State of Haryana and others .....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR**
**HON'BLE MR. JUSTICE VIKAS SURI**

***Argued by***: Mr. Satish Chaudhary, Advocate
for the petitioner(s).

Ms. Svaneel Jaswal, Additional Advocate General, Haryana.

Mr. Parvinder Singh, Advocate
for respondents No. 6, 8, 10, 11, 14, 18, 20 and 21
(in CWP No. 28866 of 2022) and
for respondents No. 5, 6, 8, 10, 11, 14, 16, 18, 20, 26, 27, 35
and 46 in CWP-29007-2022).

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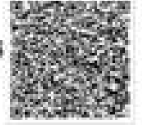
**SURESHWAR THAKUR, J.**

1. Since both the supra writ petitions arise from a common verdict, as, made by the learned Revisional Court concerned, therebys both become amenable for a common verdict being made thereons.

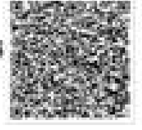


2. Through the instant writ petitions, the petitioner seek the quashing of the order dated 30.5.2022 passed by the learned Financial Commissioner, Haryana, wherebys the revision petition filed against the order dated 24.11.2021, passed by the learned Commissioner concerned, became dismissed, besides therebys the order dated 24.12.2020, passed by the learned Collector, Ambala, and, the order dated 24.11.2021, passed by the Commissioner, Division Ambala dated 24.11.2021, thus became affirmed.

3. For brevity, the facts are being taken from ***CWP No. 29007 of 2022***.

4. It is averred in the instant petition, that initially two suits became filed under Section 13-A of the Punjab Village Common Lands (Regulation) Act, 1961 (for short 'the Act of 1961'). One of such filed suit(s) was by one Ram Ji Lal (respondent No. 5 in CWP No. 28866 of 2022) and others against the Gram Panchayat Bhudian. In the said suit, the plaintiffs claimed the rendition of a declaratory relief for theirs becoming declared owners in possession of the suit land, besides claimed the relief of permanent injunction, thus for restraining the Gram Panchayat from interfering in the peaceful possession of the plaintiffs over the disputed/subject lands. The other suit became filed on 10.5.2007, rather by Gram Panchayat Bhudian against Roop Singh (respondent No. 5 in CWP No. 29007 of 2022) and others. In the said suit, the Gram Panchayat claimed the rendition of a declaratory relief for therebys its becoming declared owner in possession of the suit land. In both the supra civil suits, common lands were involved.

5. The learned Collector concerned, through a decision made



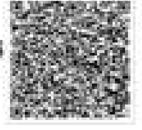
thereons, on 22.2.2011, non-suited the supra plaintiff-Ram Ji Lal (respondent No. 5 in CWP No. 28866 of 2022), whereas, the suit of the Gram Panchayat was decreed in favour of the plaintiff-Gram Panchayat concerned.

6. Being aggrieved therefrom, the above said Roop Singh and Ram Ji Lal, preferred two separate statutory appeals before the learned statutory appellate authority concerned. Through an order made thereons on 21.5.2013, the learned appellate authority concerned, set aside the order dated 22.2.2011, and, remanded the case to the learned Collector concerned with a direction to decide the matter afresh but after hearing both the parties.

7. The learned Collector concerned, through an order dated 24.12.2020, dismissed the suit bearing No. 15/13-A preferred by the Gram Panchayat concerned, whereas, the suit bearing No. 190/13-A preferred by Ram Ji Lal became decreed in his favour.

8. Being aggrieved from the said verdicts, the Gram Panchayat concerned, preferred two separate appeals before the learned Commissioner concerned. However, through a common order made thereons, on 24.11.2021, the said appeals also became dismissed by the learned appellate authority concerned.

9. The Gram Panchayat concerned, challenged the verdicts (supra) by filing thereagainst two separate revision petitions, thus before the learned Revisional Court concerned. However, through an order made thereons on 30.5.2022, the said revision petitions also became dismissed, wherebys, the concurrent verdicts, as became respectively passed by the learned Collector concerned, and, by the learned Commissioner concerned, thus became affirmed.



10. The above concurrently made verdicts, thus has led the Gram Panchayat concerned, to access this Court through the filing of the instant writ petitions.

***Submissions on behalf of the learned counsel for the petitioner-Gram Panchayat***

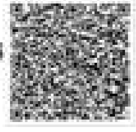
11. The learned counsel for the petitioner-Gram Panchayat submits-

(i) That since the very inception of the village, the subject land is owned and possessed by the Gram Panchayat concerned, and, the same has been reserved for the common purposes of the village, therebys the judgments impugned before this Court are required to be annulled.

(ii) That the findings of the Courts below to the effect, that the subject land is recorded as Shamlat Patti in the column of ownership of the jamabandi(s) for the years 1917-18 to 1946-47, thus is incorrect. Contrarily, the land measuring 1130 bigha is recorded as shamlat deh in the jamabandi, prior to the year 1950 and the land measuring 541 bighas 12 biswas, thus became allotted during the consolidation operations, vis-a-vis the Gram Panchayat concerned, rather in lieu of the earlier land. Resultantly post the culmination of the consolidation proceedings/operations, thus vis-a-vis the said allotted land, an entry became made in the revenue records rather displaying the same to be owned by the panchayat deh.

(iii) That though the lands in dispute are classified as banjar kadim, but they were being used both by the proprietors and by the non-proprietors, thus for grazing purposes, and, that the subject lands are not in cultivating possession of the respondents, rather safeda trees were planted by the Gram Panchayat over the land in dispute.

(iv) That the learned Courts below, have not taken into consideration the fact that the said safeda trees, were respectively auctioned



by the Gram Panchayat on 20.12.1990 and on 7.1.1999, wherebys proof emerges vis-a-vis the user of the subject lands by the Gram Panchayat concerned. Resultantly, it is argued, that therebys the benefit of the savings clause, as manifested in Section 2(g)(5)(v) but cannot be assigned to the present respondents, especially when only on non-user(s) of the subject lands, at the instance of the Gram Panchayat concerned, or by the village proprietary body concerned, qua therebys the benefit thereof is assignable to the present respondents.

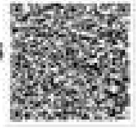
(iv) Therefore, it is prayed that the impugned orders passed by the Courts below be quashed and set aside.

***Joint submissions on behalf of the learned counsels for the respondents***

12. The learned counsels for the respondents submit-

(i) That the respondents and their predecessors-in-interest since time(s) immemorial, rather are the owners in possession of the subject property,. Furthermore, it is contended that pursuant to Section 2(g)(5)(viii), the suit property, does not fall within the definition of shamlat deh, rather the subject lands fall within the ambit of Section 2(g)(5)(v) of the Act of 1961. Clauses (v) and (viii) of Section 2(g)(5) of the Act of 1961 become extracted hereinafter.

> *"2(g) "shamlat deh" includes -*
>
> x x x x
>
> (5) lands in any village described as banjar qadim and used for common purposes of the village according to revenue records :
>
> *x x x x*
>
> *(v) is described in the revenue records as shamlat taraf, pattis, pannas and thola and not used according to revenue records for the benefit of the village community or a part*



*thereof or for common purposes*

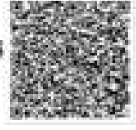
*x x x x*

*(viii) was shamlat deh, was assessed to land revenue and has been in the individual cultivating possession of co-sharers not being in excess of their respective shares in such shamlat deh on or before the 26th January, 1950; or*

(ii) That the Gram Panchayat concerned, has failed to produce any evidence, suggestive that the nature/genre of the subject land is shamlat deh, and/ or qua the subject lands becoming ever reserved for common purposes. Moreover, since the entries in the revenue record, when do vividly classify the disputed lands, as shamlat patti, therebys when the said entries remain unrebutted by the Gram Panchayat concerned, through leading any cogent evidence. Therefore, conclusivity is to be endowed to the revenue designation(s) of shamlat patti, as imparted to the subject lands, wherebys the respondents are entitled to receive the benefit of the apposite savings clause.

(iii) That a perusal of the relevant jamabandis, which have been proved on record, reveals that the subject land was never reserved for common purposes and that the subject lands are shamlat patti.

(iv) That vis-a-vis the subject lands, the apposite savings clause, as enshrined in clause (viii) of sub-Section 2(g)(5) of the Act of 1961 is not applicable, as the decree holders-respondents in the instant petitions never claimed the benefit thereof, rather they claimed the benefit of clause (v) of sub-Section 2(g)(5) of the Act of 1961. Significantly also, since cogent evidence in proof of the ingredient(s) of the supra clause (v) rather did also become adduced on record. Conspicuously, there is no effective application vis-a-vis the subject lands qua the savings clause, as occurs in Section 2(g)(5)(viii) of the Act of 1961, whereins manifestations occur, that



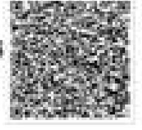
prior to the year 1950, the decree holders were required to be holding cultivating possession in proportion to their shares thereovers, thus for therebys theirs purportedly saving the subject lands from vestment in the shamlat deh.

***Inferences of this Court***

13. The controversy which has emerged amongst the contesting litigants relates to whether there is a gross misappraisal of the revenue entries, as manifested in the revenue records. The revenue entries are contended to purportedly respectively designate, the subject land(s), as shamlat deh land(s) or as shamlat taraf/pattis/pannas/thola lands. Furthermore, this Court is also required to test the veracity of the submissions made before this Court, by the learned counsel for the petitioner, that since in terms of the subject lands becoming purportedly designated, as shamlat deh lands, thus they purportedly became subjected to public auction respectively 20.12.1990 and on 7.1.1999, whereupon, the present respondents were required to be non-suited, besides the impugned verdicts are required to be quashed and set aside.

14. Resultantly and reiteratedly, this Court is required to be also further determining whether the impugned attestation of mutation bearing No.595, as made by the Assistant Collector concerned, in the year 1955 vis-a-vis the present petitioner, wherebys there was conferment of right, title and interest over the subject land(s) in favour of the present petitioner, but was an aptly made order.

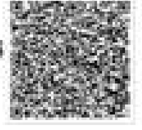
15. Furthermore, this Court is also required to be determining whether the contention raised before this Court, on behalf of the decree holders-respondents herein, that the revenue entries, as manifested in the



revenue records, commencing from the year 1917-18 to 1946-47, when do rather make palpable speakings vis-a-vis the disputed lands being assigned the revenue designations of *shamlat deh munkism shamilat patti Bhoop Singh Vagarah, Shamlat Patti Roor Singh, Shamlat Patti Sahib Singh hasab rasad jar khewat*, whether theretos absolute sanctity is to be assigned.

16. Tritely, since a rebuttable presumption of truth is assigned to the impartings of the supra revenue designations to the disputed lands. Therefore, it has to be discerned from the records whether cogent rebuttal evidence theretos became adduced. In addition, whether in the absence of adduction of the apposite cogent rebuttal evidence, thus at the instance of the present petitioner, rather for eroding the presumption of truth attached to the impartings of revenue designations to the disputed lands, respectively as *shamlat deh munkism shamilat patti Bhoop Singh Vagarah, Shamlat Patti Roor Singh, Shamlat Patti Sahib Singh hasab rasad jar khewat*, whether therebys, the presumption of truth attached to the said revenue designations, but does acquire conclusivity.

17. Lastly also, this Court is also required to be discerning from the presently available record, whether after the consolidation operations, thus a valid order became passed by the empowered revenue officer concerned, wherebys the designations earlier imparted to the disputed lands, respectively as shamlat deh munkism shamilat patti Bhoop Singh Vagarah, Shamlat Patti Roor Singh, Shamlat Patti Sahib Singh hasab rasad jar khewat, became validly altered or changed, as shamlat deh. Ultimately, also this Court is to discover, thus evidence to the extent, whether on the culmination of the consolidation operations, the disputed lands, after pro-rata cuts being made from the legitimate holdings of the decree holders-respondents, rather

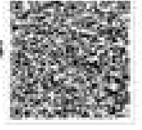


became assigned to the Gram Panchayat concerned, and, further subsequently they became used for the common purpose of the village proprietary body.

18. Now in case this Court agrees with the supra submissions made before this Court, by the learned counsel for the petitioner, therebys to some extent, the further contention raised before this Court, by the learned counsel for the petitioner, that since the classification column appertaining to the subject land(s), displays the subject lands to be gair mumkin land(s), but also naturally may acquire some force, wherebys the present respondents may become barred to claim the benefit of the savings clause, as occurs in Section 2(g)(5)(viii) of the Act of 1961.

19. Predominantly when for endowing the beneficent grace thereofs, to the present respondents, there was but a requirement of an entry existing in the classification column, as borne in the revenue records, as appertaining to the subject lands, and, the said classification column clearly manifesting, that the subject lands were under cultivation of the present respondents, through their predecessors-in-interest, but prior to the year 1950, thus on the basis of an entry existing in the classification column, inasmuch as, the apposite classification column candidly speaking that the subject lands became entered thereins as barani lands.

20. Conspicuously, the designations imparted to the subject lands in the classification column of the revenue records, is gair mumkin, therebys when they were uncultivable, therebys the disputed lands, but naturally cannot become saved from vestment in the shamlat deh, pursuant to the purported endowments vis-a-vis the present petitioner, rather the beneficent grace of the savings clause (viii) of Section 2(g)(5) of the Act of 1961.

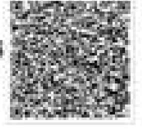


21. In the said regard, though it became averred by the present petitioner before the authority(ies) below, and, also becomes averred in the present writ petitions, that the attestation of mutation vis-a-vis the suit lands became validly attested in favour of the present petitioner, rather through the drawing of mutation No. 595. Furthermore, though it is also averred that the attestation of the said mutation but was a sequel of the subject lands, after culmination of the consolidation proceedings, thus becoming reserved in favour of the Gram Panchayat concerned. In addition, though it is also contended, that the auctioning of the subject lands, *per se* is personificatory qua the subject lands becoming used by the Gram Panchayat, thus for the benefit of the village proprietary body, wherebys the benefit of the savings clause, as carried in Section 2(g)(5)(v), rather cannot become assigned to the present respondents.

22. Tritely also, it is contended, that since purported illegal sale transactions were made by the present respondents qua their alienees concerned, as manifested by a judgment and decree dated 3.9.2011, as became rendered by the Civil Court concerned, thus resulting in the decreeing of the Gram Panchayat's suit. Therefore, it is contended, that the verdict dated 22.2.2011, recorded by the Collector concerned, wherebys the present respondents were non-suited, thus acquires immense tenacity, wherebys the present petitions but are required to be allowed.

23. The supra averment(s), as borne in the instant writ petitions, became denied by the present respondents herein, both in the proceedings raised before the statutory authorities below, as well as through a pointed reply to the same becoming rendered by the respondents.

24. Insofar as the validity of the attestation of the impugned



mutation bearing No. 595, is concerned, wherebys the ownership rights over the disputed lands became conferred upon the present petitioner, the said attestation of mutation, thus for the reasons to be assigned hereinafter, is an invalidly recorded mutation. The prime reason for stating so, becomes grooved in the factum, that the supra mutation became sanctioned in the name of the Gram Panchayat concerned, in the year 1955 but post the issuance of administrative instructions by the Government, rather under the provisions of the Act of 1961. Any anvilings of the contentious order of mutation, thus upon the said administrative instructions, which otherwise are infected with the vice of *sub coloris officio,* and, when they do also rather fall in the genre of execution despotism, thus is a misanviling thereons. Moreover also, when there is no evidence, that in the makings of the said order, thus adherence became made to the principles of natural justice. As such, the present respondents became evidently condemned unheard, in the proceedings which resulted in the makings of the contentious order of mutation, therebys the said contentious mutation (supra) becomes rendered *non est* and illegal.

25. Now the vigour of the averment raised in the instant writ petitions, that since public auction of the safeda trees, as became purportedly cultivated on the subject lands, did become conducted, wherebys the subject lands are to be construed to be, as such used for the village common purposes, wherebys the respondents are not entitled to become endowed the beneficent grace of Section 2(g)(5)(v) of the Act of 1961, rather evaporates in the face, of the respondents in their reply pointedly stating, that in the order rendered on 21.5.2013, a stark echoing becoming recorded, qua the witness of the Gram Panchayat, but admitting that the suit lands were never

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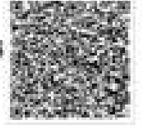
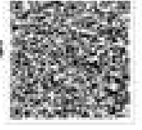


put to public auction by the Gram Panchayat. The said findings acquires validity, wherebys the said argument loses its worth, especially when the said pointed reply, has remained unrebutted through wants of any credible rejoinder theretos becoming made, nor when for belying the said pointed contention no tangible evidence becomes adduced by the present petitioner.

26. Though, much reliance is also placed upon the rendition of a decree by the Civil Court of competent jurisdiction, wherebys the alienations, as made qua a part of the subject lands by the present respondents, vis-a-vis the alienor(s) concerned, became quashed. The said passed decree by the Civil Court was passed/based upon an earlier thereto decision becoming recorded by the Collector concerned, on 22.2.2011, wherebys the present petitioner's declaratory suit became decreed. However, the vigour of the said argument also becomes rendered extremely feeble in the light of-

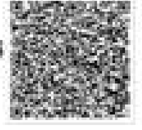
(a) The reliance, as made by the Civil Court concerned, upon the rendition of a decree by the Collector concerned, on 22.2.2011, but is a misplaced reliance thereons. The reason for stating so becomes etched in the factum that the (supra) Civil Court decree, was passed/based upon the order rendered prior thereto by the Collector concerned, on 22.2.2011, wherebys the suit of the Gram Panchayat cast under Section 13-A of the Act of 1961 was decreed and the suit of the respondents herein cast under Section 13-A of the Act of 1961, rather was dismissed. Since the verdict rendered by the Collector concerned, on 22.2.2011 became quashed and set aside, by the appellate authority concerned, therebys the reliance placed thereon by the Civil Court concerned, while passing subsequent thereto the (supra) decree on 03.9.2011 is but an ineffective, reliance thereovers.



(b) Secondarily on the ground that since a statutory embargo becomes created under Section 13 of the Act of 1961, provisions whereof become extracted hereinafter, against the Civil Courts entertaining suits involving shamlat deh lands. Resultantly therebys both the entertainment of the suit (supra) besides the assumption of jurisdiction upon the said suit, evidently involving lands belonging to the genre of shamlat lands, to genre whereof, the suit lands fall, but naturally becomes fallible. The said is reiteratedly premised on the ground, that both the supra attract thereovers thus the statutory bar created against the entertainment of disputes by the Civil Courts, whereins, the subject matters are shamlat deh lands. The further consequence thereof, is that, the apposite Civil Court decree, thus is to be construed to be illegal, non est and not binding upon the right, title and interest of the present respondents over the subject lands.

27. Since the said fact is pointedly stated in the reply furnished to the instant writ petition which however remains unrebutted, therebys conclusivity is to be assigned to the contentions to the said extent, as become raised in the reply(ies) furnished to the instant writ petitions.

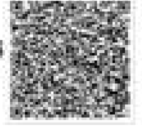
> ***13. Bar of jurisdiction of civil courts****. - No civil Court shall have jurisdiction -*
>
> *(a) to entertain or adjudicate upon any question whether any property or any right to or interest in any property is or is not shamlat deh vested or deemed to have been vested in a Panchayat under this Act; or*
>
> *(b) to question the legality of any action taken by the Commissioner or the Collector or the Panchayat under this Act; or*
>
> *(c) in respect of any matter which the Commissioner or the Collector is empowered by or under this Act to determine."*



28. Now the further issue, which is required to be put to a quietus relates to whether the benefit of Section 2(g)(5)(v) is to be assigned to the respondent herein.

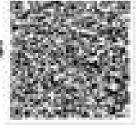
29. Before determining whether the benefit of the supra savings clause, is to be assigned to the decree holders-the respondents/suit lands, wherebys they become saved from the vestment in the shamlat deh, it is necessary to understand the ingredients thereofs. A studied and keen perusal of the ingredients carried in the supra extracted savings clause, to the definition of shamlat deh lands, unfolds, that upon the lands being entered into in the revenue records, as shamlat taraf/pattis/pannas/thola lands, and, theirs also in the classification column of the revenue record, thus becoming designated, as gair mumkin, therebys the tarafdars/pattidars/pannedars/ tholedars rather becoming entitled to save the lands, with supra revenue designations, from vestment in the shamlat deh lands, but subject to proof also emerging, that the apposite gair mumkin lands were never used for the village common proprietary.

30. Therefore, cogent rebuttal evidence was required to be adduced by the Gram Panchayat concerned, especially vis-a-vis the jamabandis for the year 1917-18 to which Ex. R-1 becomes assigned, jamabandi for the year 1930-31, to which Ex. R-2 becomes assigned, jamabandi for the year 1938-39, to which Ex. R-3 becomes assigned, jamabandi for the year 1942-43, to which Ex. R-4 becomes assigned and jamabandi for the year 1946-47, to which Ex. R-5 becomes assigned, whereins, the suit lands become imparted the revenue designation(s) of shamlat patti lands. The said fact became pleaded before the statutory authorities below, and, also becomes pleaded in the reply(ies) furnished to the instant writ petition, by the present



respondents. Since no cogent rebuttal evidence theretos, became rendered by the Gram Panchayat, nor also when no effective rebutting rejoinder is made, to the pointed contentions raised in the reply(ies), furnished to the instant petitions, wherebys the respondents have taken to erode the vigour of the apposite denying averment raised in the present petition, manifesting that the revenue records thus support the respondents' stand, qua the subject lands being entered thereins as shamlat patti lands. Resultantly therebys naturally when there is neither, adduction of any cogent rebuttal evidence theretos, nor when rather becomes eroded the presumption of truth attached to the supra imparted revenue designations to the suit lands. Therefore, conclusivity is to be assigned to the revenue records/entries, thus displaying that the disputed lands became imparted the revenue designation(s) of shamlat patti lands, wherebys the subject lands become saved from vestment in the shamlat deh.

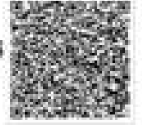
31. Additionally also it became incumbent upon the Gram Panchayat concerned, to adduce evidence, that the said entry, if required, did become altered through a valid order becoming recorded by the empowered revenue officer concerned. Moreover, evidence was also required to be adduced by the Gram Panchayat, suggestive that post the making of an order altering the said entries to shamlat deh lands, but also in the consolidation proceedings, the subject lands becoming reserved for the village common purposes, after pro-rata cuts being made from the legitimate holdings of the decree holders-respondents. In consequence, therebys, the presumption of truth attached to the revenue entries borne in the (supra) jamabandis as appertaining to the subject lands, whereins, manifestations occur qua the suit lands becoming imparted the designations of *shamlat deh munkism shamilat patti Bhoop Singh Vagarah, Shamlat Patti Roor Singh, Shamlat Patti Sahib*



*Singh hasab rasad jar khewat,* thus therebys may have become rebutted. However, the said evidence is abysmally lacking.

32. In sequel, the impugned order of mutation bearing No.595, attested in the year 1955, wherebys ownership over the disputed lands became conferred upon the Gram Panchayat concerned, rather is to be concluded to be made in complete disregard to the manifestations, as made in exhibits R-1 to R-5 (supra), whereins, the disputed lands become imparted the revenue designation of shamlat patti lands. As such, the said mutation appears to be made merely upon some administrative instructions, besides naturally it appears to be made under some *force majeure executive fiat*, naturally therebys no reverence is to assigned theretos, especially when there is no evidence on record, suggestive, that in the proceedings relating to the passing of the said order, thus adherence was made to the principles of natural justice. In summa, the (supra) impugned order of mutation, wherebys the ownership right over the disputed land, became vested in the Gram Panchayat concerned, but is completely illegal and non est, and, the same is required to be quashed and set aside.

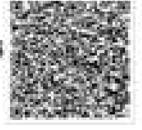
33. Moreover, a closest scrutiny of the supra evidence on record, reveals that since therebys the supra assigned revenue designations became made vis-a-vis the subject lands. Resultantly therebys it does bring home a conclusion that the subject lands fall within the domain of shamlat patti lands. Moreover, when the said lands are also entered in the apposite classification column as gair mumkin lands, therebys there was no necessity on the part of the decree holders-the respondents herein, to lead evidence, that prior to 1950, they were holding cultivating possession thereofs, nor also if such evidence remained unadduced, therebys too, the decree holders



are not to be non-suited. The reason being that the present respondents, did not claim, the endowment qua them of the benefit of savings clause, as occurs in Section 2(g)(5)(viii) of the Act of 1961, rather they claimed that they be conferred the benefit of the savings clause (v) as occurs in Section 2(g)(5) of the Act of 1961.

34. Additionally and fortifyingly, though the consolidation proceedings in village Bhudian took place in the year 1955-56, and, the missil haquiat pursuant to the consolidation proceedings, did also become prepared, but there is no evidence on record reflecting any co-relation inter se the previous khasra numbers, and, the subsequent khasra numbers, as became purportedly assigned to the subject lands. Therefore, in the absence of the apposite co-relation inter se the apposite sabik khasra numbers and the apposite haal khasra numbers, inasmuch as, both respectively appertaining to the suit lands. Resultantly, even if assumingly if some lands, thus during consolidation proceedings, became allotted to the Gram Panchayat concerned, yet the allotments thereofs to the Gram Panchayat, but in the absence of adduction of cogent evidence, rather establishing the imperative link inter se the apposite sabik and the apposite haal khasra numbers, and, the said link further becoming connected with the subject lands, thus brings home an inference, that the lands reserved for the village proprietary body in the finalized consolidation scheme, rather were not the subject lands.

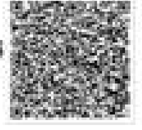
35. Consequently, the attestation of mutation bearing No.595 thus in the year 1955, wherebys ownership rights became conferred upon the present petitioner, thus is vitiated, as therebys there has been an arbitrary snatching and truncating of the ownership rights of the present respondents over the subject lands, despite no cogent evidence becoming adduced rather



to erode the efficacy of the employments of the (supra) revenue designations to the subject lands, especially when the said designations candidly speak that the disputed lands are shamlat patti lands. Resultantly therebys if any averment was made before the authorities below or in the instant petitions, that the subject lands, during the consolidation proceedings, were reserved for the common purposes of the village, thus is an idly made averment, which remains unsupported by the supra requisite evidence.

36. Since this Court has hereinabove concluded, that the subject lands were never subjected to public auction, nor any safeda trees were grown over the subject lands, besides when there is no supporting entry existing in the wazib ul arz, thus displaying that the subject lands became used for the village common purpose, therebys since the ingredients carried in the apposite savings clause inasmuch as, (a) the subject lands being conclusively denoted in the revenue records to be shamlat patti lands, (b) the subject lands being designated as gair mumking lands, yet theirs being not used for the village common purposes by the village proprietary body, thus become irrefragably established, (c) therebys the instant petitions are required to be dismissed. Therebys the beneficent grace of the savings clause, as occurs in Section 2(g)(5)(v) of the Act of 1961, is to be endowed to the present respondents.

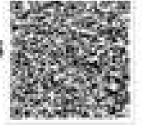
37. Reiteratedly since firm evidence comprised in the revenue entries occurring in the revenue records commencing from the year 1917-18 to 1946-47, do manifest the trite fact, that the subject lands fall within the ambit of shamlat patti lands, as also when the thereins entries display, that the subject lands were shamlat deh munkism shamilat patti Bhoop Singh Vagarah, Shamlat Patti Roor Singh, Shamlat Patti Sahib Singh hasab rasad



jar khewat. Resultantly and reiteratedly a conclusion, thus can be made, that the subject lands, do fall within the ambit of Section 2(g)(5)(v) of the Act of 1961, with enunciations thereins, that insofar as shamlat taraf/pattis/pannas/ thola lands are concerned, though they may be entered as gair mumkin, but if they are not used for the common purpose of the village proprietary body concerned, therebys the tarafdars/pattidars/pannedars/tholedars, thus becoming entitled to save the lands from vestment in the shamlat deh lands. Imperatively, since this Court has rejected the argument made by the learned counsel for the petitioner, that the subject lands were put to public auction, therebys, reiteratedly the subject lands irrespective of theirs being entered in the revenue records, as gair mumkin lands, when but were never used for the benefit of the village proprietary body. Therefore, this Court states with aplomb, that the benefit of the apposite savings clause is to be endowed to the decree holder-present respondents.

38. Furthermore, insofar as the argument raised by the learned counsel for the Gram Panchayat, that since mutation No. 595 was sanctioned in the name of the Gram Panchayat in the year 1955, as such, the subject lands belong to the Gram Panchayat, thus is concerned. However, the said attested mutation is illegal, and, *non est,* thus in terms of the above made discussion, wherebys this Court has concluded that the subject lands, fall within the ambit of Section 2(g)(5)(v) of the Act of 1961, and, as such they were amenable to become saved from vestment in the shamlat deh.

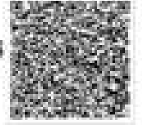
39. The contentious mutation appears to be made with gross lack of application of mind, to the relevant revenue records, besides is a result of complete lack of the (supra) apposite co-relations being made, inter se the previous khasra numbers with the khasra numbers, as exist in the year 1955,



especially when no evidence becomes adduced on record, displaying that the sabik khasra numbers purportedly imparted to the disputed lands, did have the requisite compatibility with the haal khasra numbers. Resultantly, and, reiteratedly, for the lack of (supra) inter se compatibility, thus the supra mutation appears to be founded upon incorrect revenue data.

40. Moreover, since mutation No. 595 became sanctioned in the name of the Gram Panchayat concerned, in the year 1955, but merely on the basis of administrative instructions of the Government, as became issued under the provisions of the Act of 1961. Moreover, when there is no evidence revealing that in the proceedings engaged into prior to the making of the said mutation, there was adherence to the principles of natural justice, therebys in the making of the said mutation, the respondents are deemed to be condemned unheard.

41. Conspicuously also when no cogent became adduced on record to rebut, the presumption of truth attached to the revenue entries displaying the subject lands being entered in the revenue records, as *shamlat deh munkism shamilat patti Bhoop Singh Vagarah, Shamlat Patti Roor Singh, Shamlat Patti Sahib Singh hasab rasad jar khewat*, whereas, the adduction of cogent rebuttal evidence theretos, but was imperative. As such, when for want of cogent rebuttal evidence being adduced, thus for eroding the efficacy of the entries (supra), therebys when the said revenue entries acquire an aura of conclusivity. Resultantly, they were not required to be replaced on the basis of the making of an order of mutation No. 595, and, that too, when it has been founded merely upon administrative instructions, and, has not been made through adherence being made to the principles of natural justice. The said mutation, as such has untenably limited and



fettered the right of the respondents as owners over the disputed lands.

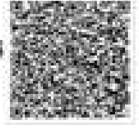
42. In addition, the Gram Panchayat concerned, has also failed to establish that safeda tress became planted by it on the subject lands. Moreover, since the Apex Court in a judgment rendered in case titled as ***Hakim, Hari Ram and others versus Santa Ram,*** reported in ***1955 PLR6***, has observed that in case a person plants trees on a land, which does not belongs to him, thereupon the said trees would belong to the owner of the land, and not the planter of the said trees. The relevant paragraph of the judgment (supra) becomes extracted hereinafter.

> *"14. Two propositions clearly emerge from the cases cited above, namely (1) that if a person plants trees on the land belonging to another, the trees come to vest in the landlord and cannot be removed by the person by whom they were planted and (2) that when in the course of partition proceedings a question arises whether the land on which the trees are standing should be allotted to one co-sharer or another, the question falls within the ambit of the expression "the mode of malting the partition" and must be decided by a revenue officer and not by a civil Court."*

**Final order**

43. In aftermath, this Court finds no merit in both the writ petitions, and, with the above observations, the same are dismissed. The impugned orders are maintained and affirmed. The decree rendered vis-a-vis the respondents in the present petition and appertaining to the suit lands, thus is upheld in its entirety.

44. The contentious mutation No.595 attested in the year 1955, wherebys there is conferment of right, title and interest over the subject lands, vis-a-vis the Gram Panchayat concerned, is quashed and set aside. In consequence, the empowered revenue officer concerned, is dehors any



executive instructions thus directed to forthwith, in respect of the subject lands, make an order for mutation, thus conferring right, title and interest thereovers vis-a-vis the present respondents-decree holders. The consequent thereto updation of the record(s) of rights be also made in contemporaneity thereof.

45. The miscellaneous application(s), if any, is/are also disposed of.

**(SURESHWAR THAKUR)**
**JUDGE**

**(VIKAS SURI)**
**JUDGE**

**April 09, 2025**
**Gurpreet**

**Whether speaking/reasoned : Yes/No**
**Whether reportable : Yes/No**