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**(2014) 07 P&H CK 0830**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** CWP No. 12615 of 2014

Darbara Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

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**Date of Decision:** July 28, 2014

**Hon'ble Judges:** Hemant Gupta, J; Arun Palli, J

**Bench:** Division Bench

**Advocate:** Sudeep Mahajan, Advocate for the Appellant

**Final Decision:** Dismissed

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**Judgement**

Hemant Gupta, J.

The challenge in the present writ petition is to an order dated 08.05.2013 passed by the Director, Village Development and Panchayat, Punjab exercising the powers of the Commissioner u/s 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short "the Act") whereby an appeal filed by the Panchayat in proceedings u/s 7 of the Act was accepted and the petitioners were ordered to be evicted rejecting the claim of the petitioners that they are in cultivating possession prior to 26.01.1950.

2. It has been found that Panchayat has been leasing the land in question in the year 1979-80, 1980-81, 1982-83, 1983-84 and 1984-85. While considering the Jamabandies produced by the petitioners for the year 1943-44, 1965-66, it was found that the land is recorded as barani and therefore the land was not cultivable. Thus, it was concluded that petitioners could not be in cultivating possession of the land in question so as to bring their claim within the Exception (viii) of Section 2(g) of the Act.

3. Learned counsel for the petitioners vehemently argued that petitioners were in continuous possession of the land relying upon an order passed by the Additional Director Consolidation on 07.03.1985. In the said order, it was found that petitioners were in possession of land measuring 10 Kanal 10 Marlas as per the Jamabandi for

the year 1943-44, so they are entitled to necessary relief.

4. We do not find any merit in the arguments raised. In the Jamabandi for the year 1942-43 (Annexure P-10), the land is described in the ownership column as shamilat deh hasab rasad khewat. Though, in such land Uttam Singh and Gurdas Singh are reflected in the column of possession, but most of the land is banjar qadim. Such land is not a cultivable land. Still further, the petitioners have not proved their extent of holding in the village and not proved that they were in possession of land, not exceeding their share in the village holding. Neither there is any proof of holding of the petitioners in the village, nor they are in proved to be in cultivating possession. Even the possession was interrupted at least till 1985-86, before the order was passed by the Director Consolidation. Consequently, none of the conditions of Exception (viii) of Section 2(g) of the Act are satisfied by the petitioners. In fact, one of the co-respondent before the Commissioner has made a statement that the possession of the land has been given to Gram Panchayat.

5. A Division Bench of this Court in LPA No. 54 of 2012 titled as "Gram Panchayat of Village Bajghera Vs. The Financial Commissioner (Revenue) Haryana and others", decided on 07.05.2014 has examined the question of vesting of land described in the revenue record as shamilat deh hasab rasad khewat. It has been held that such land is owned by the Panchayat in terms of Section 2(g)(1) read with Section 4(1)(a) of the Act.

6. For the reasons recorded in the aforesaid judgment and the facts of the present case, we do not find any case is made out for interference in the writ jurisdiction of this Court.

7. Dismissed.