

Before K. Kannan, J.

GRAM PANCHAYAT VILLAGE TONG,—Petitioner

versus

STATE OF PUNJAB AND OTHERS,—Respondents

C.W.P. No. 11056 of 1990

19th April, 2011

Constitution of India - 226/227 - East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 - Ss. 16 & 42 - Gram Panchayat has locus standi to present petition for correction of consolidation proceedings.

Held, That resolution prior in time to filing petition filed to show that demarcation of land was to be got done and application was to be sent to BDPO and authorising the then Sarpanch to do all necessary acts - Petition competent - Property which is reserved to come out of the common pool of the village shall vest in the body of estates and recorded as Jumla Malkan and the management of such property is also required to be done only by the Panchayat - Locus standi of Panchayat, therefore, cannot be disputed - Writ petition allowed, impugned order quashed.

(Paras 2, 3 & 4)

Viney Saini, Advocate, for G.S. Nagra, Advocate, for the petitioner.

K. KANNAN, J. (ORAL)

(1) The writ petition is at the instance of the Gram Panchayat, village Tong, Tehsil Baba Bakala to quash the order passed on 9.5.1990, by the Addl. Director, Consolidation of Holdings, Punjab in exercise of the powers under Section 42 of The East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (for short 'the Act'). Vide the impugned order the application filed under Section 42 of the Act had been dismissed. The petitioner had sought for a correction in the record in consolidation proceedings with regard to the fact that an idol of Mata Rani which was in khasra No.33/3/1 had been wrongly entered as falling within the boundary of khasra No.59. The prayer was rejected on technical ground that Panchayat

had not shown to have authorized the Sarpanch to move the application and that further the Addl. Director on verification of the records had found that it was held in the ownership of *Jumla Mushtarka Malkan* and that, therefore, the Gram Panchayat had no locus standi to present the petition.

(2) The petitioner has filed a copy of the Resolution (Annexure P-5) to show that demarcation of land of Mata Rani Tong was to be got done, an application was to be sent to the BDPO Raya and authorizing Amrik Singh, the then Sarpanch to do all the necessary acts. This resolution is dated 23.10.1989, i.e. prior to the filing of the petition on 19.2.1990 and the decision rendered on 9.5.1990. I, therefore, do not find the petition to be not competent.

(3) As regards the holding by the Addl. Director that the Panchayat had not locus standi, the learned counsel refers me to Rule 16 of the Act and points out to Clause 2 that reads as follows:-

“16. (2) When the scheme is confirmed under section 20, the land so allotted to the occupancy tenant and the landlord shall, notwithstanding anything to the contrary contained in the Punjab Tenancy Act, 1887 (XVI of 1887), or in any other law for the time being in force, be held by each of them respectively in full right of ownership, and the right of occupancy in the land allotted to the landlord shall be deemed to be *extinguished*.”

Learned counsel argues that the proprietary rights in respect of the property which is reserved to come out of the common pool of the village shall vest in the body of estates and recorded as *Jumla Malkan* and the management of such property is also required to be done only by the Panchayat. The locus standi of Panchayat cannot, therefore, be disputed.

(4) The impugned order is erroneous and is quashed. There shall be a direction in terms of the prayer sought for by the petitioner that Quami of Mata Rani shall be made entering the same to fall in khasra No.33//3/1 instead of the entry as made to fall in khasra No.59.

(5) The correction shall be effected within a period of 8 weeks from the receipt of copy of this order.

(6) The writ petition is allowed to the above extent.

V. SURI