

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

L.P.A. No. 196 of 2011 (O&M)

DATE OF DECISION : 02.02.2011

Gram Sabha Village Malsari Khera

.... APPELLANT

Versus

State of Haryana and others

..... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

HON'BLE MR. JUSTICE M. JEYAPPAUL

Present: Mr. J.S. Yadav, Advocate,
for the appellant.

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SATISH KUMAR MITTAL, J. (Oral)

Gram Sabha of village Malsari Khera has filed this Letters Patent Appeal against the order dated 18.1.2011, passed by the learned Single Judge in CWP No. 881 of 2011.

We have heard learned counsel for the appellant.

The grouse of the appellant-Gram Sabha is that in terms of the State Policy dated 1.2.2008, residential plots of 100 square yards are to be carved out from the *shamilat deh* land, for being allotted to the weaker section of the village. The appellant is not challenging the said policy, but its grouse is that while carving out these plots, the Block Development and Panchayat Officer, Pillu Khera, carved out the plots from the land

comprised in Khasra No. 39//5/2 and 40//1/1. According to the appellant, in the said land, there exists a Shiv Mandir and it is being used by the inhabitants of the village for holding the Shivratri Mela, therefore, instead of the land of these two khasra numbers, land from khasra No. 57//8/2 should be used for carving out the plots. The learned Single Judge, while considering this prayer of the appellant, has held that this issue cannot be appreciated being question of fact in the writ jurisdiction and the appellant has the remedy to approach the authority, who has carved out the plots.

After considering the submissions made by learned counsel for the appellant, we do not find any merit in this appeal. In our opinion, the learned Single Judge has rightly not entertained the writ petition. The writ petition has been filed by the Gram Sabha, which has been defined as a body consisting of persons registered as voters in the electoral rolls of a village comprised within the area of the Panchayat at the village level. Gram Panchayat, who has been empowered under the Haryana Panchayati Raj Act, 1994 to deal with the property vesting in the Gram Panchayat and who has passed the resolution in terms of the policy to carve out plots for allotment to the weaker section, has not filed the writ petition. The question as to whether in a particular khasra number, there is a Mandir or it is being used by the residents of the village for holding Shivratri Mela, is a question of fact, which cannot be gone into in the writ jurisdiction. If the Gram Panchayat or the inhabitants of the village have any grouse against the carving out of the plots in a particular khasra number, they have the remedy

to approach the authorities, who have carved out the plots or they can approach the Deputy Commissioner of the District, who has over-all control over the activities of the Gram Panchayat. Therefore, in our opinion, in view of these facts, the learned Single Judge has rightly dismissed the writ petition and the impugned order does not require any interference.

Dismissed.

However, it will be open for the appellant to raise its grouse before the administrative authorities.

**(SATISH KUMAR MITTAL)
JUDGE**

**February 02, 2011
ndj**

**(M. JEYAPPAUL)
JUDGE**