

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

Civil Writ Petition No.3415 of 2015
Date of Decision: 23.3.2015

Punjab Wakf Board ..Petitioner

versus

State of Punjab and others ..Respondents

CORAM: HON'BLE MR. JUSTICE RAJIVE BHALLA
HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Ghulam Nabi Malik, Advocate,
for the petitioner.

Mr. Rajinder Goyal, Addl.A.G.,Punjab.

Ms. Monika Jalota, Advocate,
for respondent no.4-Gram Panchayat.

RAJIVE BHALLA, J. (ORAL)

The petitioner prays for issuance of a writ of certiorari quashing order dated 18.11.2014 passed by respondent no.3-Divisional Deputy Director, Rural Development and Panchayats, Patiala, whereby, application for treating the issue of maintainability, as a preliminary issue, has been dismissed.

Counsel for the petitioner submits that the petitioner filed an application for treating the issue of maintainability of the petition, filed by the Gram Panchayat, as a preliminary issue but the

application has been rejected summarily without considering the provisions of the Wakf Act, 1995 or the Punjab Village Common Lands (Regulation) Act, 1961.

Reply filed on behalf of respondent no.4-Gram Panchayat, in court today, is taken on record.

Counsel for the Gram Panchayat submits that she has no objection if order dated 18.11.2014 is set aside and the Collector-cum-Divisional Deputy Director, Rural Development and Panchayats, Patiala, is directed to decide the matter afresh.

We have heard counsel for the parties and perused the impugned order. Counsel for the Gram Panchayat has fairly conceded that the impugned order has to be set aside but despite this concession, it would be necessary to record that proceedings under section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as "the Act"), are quasi judicial, in nature but as it requires an adjudication of proprietary rights, the adjudication is akin to a judicial adjudication. A Collector, exercising power under section 11 of the Act, is a substitute for a civil court and is, therefore, required, even where he determines an interlocutory lis, to pass a reasoned order, preceded by a perceptible process of reasoning. A perusal of the impugned order reveals that not only is it perfunctory, but it does not address the issue raised and is, therefore, arbitrary.

Consequently, we allow the writ petition, set aside order dated 18.11.2014 and restore the matter to the Divisional Deputy Director Rural Development and Panchayats, Patiala, to decide the

application filed by the petitioner for treating the question of maintainability of the petition, filed under section 11 of the Act, as a preliminary issue, by passing a reasoned order.

(RAJIVE BHALLA)
JUDGE

(AMOL RATTAN SINGH)
JUDGE

23.3.2015
VK