

IN THE HIGH COURT FOR THE STATES OF PUNJAB
AND HARYANA AT CHANDIGARH.

CWP No. 668 of 2014. [O&M]

Date of Decision: 22nd September, 2015.

Kuldeep Singh & Anr.

Petitioners through

Mr. Vikram Singh, Advocate

Versus

State of Punjab & Ors.

Respondents through

Mr. Rajesh Bhardwaj, Addl. AG, Punjab.

Mr. V.K.Sandhir, Advocate, for
respondent No.3.

Mr. Sandeep Verma, Advocate, for
respondent No.4.

CORAM:HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE P.B.BAJANTHRI

- 1. Whether Reporters of local papers may be allowed to see the judgment?**
- 2. To be referred to the Reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

SURYA KANT, J. [ORAL]

The petitioners have laid challenge to the orders dated 30.07.2009 and 09.11.2011 [P-3 and P-4] passed by the Collector and the Appellate Authority respectively, under the Punjab Village Common Lands [Regulation] Act, 1961 whereby declaratory petition filed by respondent No. 4 to declare the Gram Panchayat of their village as the owner of the suit land, was decreed and petitioners' appeal has been dismissed.

It is apparent from the impugned orders that the Authorities decided the case only on the basis of the entries made in the Jamabandies. The entries in those documents were stated to be conflicting when the matter came up for hearing on 13.05.2015 as even after recording the private persons as 'owners' of the land, it was shown to be reserved for 'common purposes', like school,

Panchayat Ghar, Cremation Ground, grave-yard and Hadda Rodi etc. This Court therefore directed the State Authorities to produce the records prepared during consolidation.

In deference thereto, Shri Siraj Ahmad, Tehsildar, Nabha has filed his affidavit along with *Misal Haqiat* for the year 1959-60 prepared at the time of consolidation and Resolution Nos. 3 and 16 dated 11.08.1959 and 29.09.1959 respectively. It is difficult for the Petitioners to draw any outright advantage of these records. Be that as it may, since the above mentioned documents have some bearing on the issue[s] raised in the instant case and the same were not produced before the Authorities while deciding the petition or the appeal and these are all official documents, the genuineness whereof can hardly be disputed, we are of the considered view that it would be in the interest of justice to direct the Appellate Authority to decide the petitioners' appeal afresh after taking into consideration the entire relevant material.

The Appellate Authority may accord one opportunity each to the parties to produce only documentary evidence, if any, in support of or to controvert the above mentioned documents subject to the further caveat that the petitioners shall be required to furnish cash Security or Bank Guarantee towards estimated annual lease amount of the land, as may be assessed by the Collector as an interim measure from the year 2011 onwards, i.e., when the appellate authority previously allowed the appeal. They shall furnish such security within one month and then only the appeal shall be decided afresh on merits.

For the reasons afore-stated, the writ petition is allowed in part but conditionally and the appellate order dated 09.11.2011 is set aside. The Appellate Authority shall make an endeavour to decide the appeal before 31.12.2015.

The parties through their counsel are directed to appear before the Appellate Authority on 05.10.2015.

Disposed of. Dasti.

(SURYA KANT)
JUDGE

September 22, 2015.
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(P.B.BAJANTHRI)
JUDGE