

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No.8003 of 2015

Date of Decision:15.1.2016

Pardeep Singh and others

---Petitioners

vs.

Ram Rattan and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Vikas Singh, Advocate
for the petitioners

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

Rekha Mittal,J.

By invoking Article 227 of the Constitution of India the present petition has been directed against order dated 8.10.2015 (Annexure P-7) passed by the Additional Deputy Commissioner (D)-cum-Collector, Fatehgarh Sahib whereby the application filed by the petitioners and proforma respondents under Order VII Rule 11 of the Code of Civil Procedure (in short "CPC") for rejection of the petition, has been dismissed.

The contesting respondents Ram Rattan and others filed a petition under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short "the Act") for deciding the question of title

in the suit land. As per allegations raised in para 4 of the petition, grievance of the contesting respondents is that in the column of ownership, a change has been wrongly made showing the proprietors as owners of the land.

The petitioners and proforma respondents filed an application under Order VII Rule 11 CPC for rejection of the petition inter alia on the ground that the petition is not maintainable. It is also averred that the decrees had been passed against the Gram Panchayat before Amendment Act No. 19 of 1976 came into force and thus no written statement was necessary to be filed. The said application came to be dismissed vide impugned order dated 8.10.2015.

On November 30, 2015, the order passed by this Court, reads as follows:-

“Learned counsel for the petitioners is directed to satisfy this Court as to whether provisions under Order VII, Rule 11 CPC are applicable to the proceedings under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961.

Learned counsel for the petitioners seeks time to produce the case law on the aforesaid point.

Adjourned to 15.1.2016.”

Counsel for the petitioners, in response thereto, has relied upon a Division Bench judgment of this Court **Jagir Singh vs. State of Punjab 2013(4) R.C.R.(Civil) 347** wherein in para 6, it has been held, reads thus:-

“A long line of judicial precedents have consistently held that as the Collector is a substitute for civil Courts, he

shall, as far as possible, follow a procedure akin to the procedure adopted by civil Court, for deciding a suit. The Collector is, therefore, required, while adjudicating a dispute, under Section 11 of the 1961, to call upon the Panchayat, or where the Gram Panchayat has filed a petition, the opposite party to file its reply and upon receipt of reply, if any, to frame issues, grant an opportunity to parties to lead evidence and then, proceed to record his opinion in favour or against the claim set out in the petition. The executive officers conferred with powers of a 'Collector' under the 1961 Act, however, follow these binding precedents and procedure prescribed by Rule 21 of the 1964 Rules more in breach than in compliance. We are, therefore, of the considered opinion that time may have, come for the State of Punjab to re-consider conferment of powers, under Section 11 of the 1961 Act, upon civil Courts as we have come across innumerable orders, where petitions, under section 11 of the 1961 Act, are decided in a summary manner, without following any procedure, as has happened in the present case.”

Counsel has submitted that as the Collector is treated as a substitute for civil court for deciding the question of title and, therefore, enjoined upon to follow a procedure akin to the procedure adopted by the civil court for deciding a suit, as far as possible, the provisions of Order VII

Rule 11 CPC shall also be applicable to the proceedings filed under Section 11 of the Act.

I have heard counsel for the petitioners, perused the records and the judgment referred to but find no merit in the petition.

The judgment in **Jagir Singh's case (supra)** was rendered by the Court by taking into consideration the provisions of Rule 21-A of the Punjab Village Common Lands (Regulation) Rules, 1964 (for short “the 1964 Rules”). A relevant extract from Rule 21-A of the 1964 Rules reads as follows:-

“21-A. Decision of claim of right, title or interest in shamilat deh

(1) Any person claiming a right, title or interest in any land vested or deemed to have been vested in the Panchayat may submit an application in the form of a statement duly signed and verified in the manner provided in the Code of Civil Procedure, 1908, supported by a copy of the revenue record within thirty days from the date of accrual of cause of action to the Collector.

(2) The Collector shall, after receiving the application, send notice to the Panchayat concerned along with the copy of the application directing it to appear before him on the date fixed for the purpose. The Collector shall decide the matter, after affording a reasonable opportunity to the parties to substantiate their respective claims.”

While interpreting the provisions of Rule 21-A extracted above, this Court held that the Collector shall, as far as possible, follow a procedure akin to the procedure adopted by a civil court for deciding a suit meaning thereby that the Collector while adjudicating a dispute under Section 11 of the Act, upon receipt of reply, if any, frame issues, grant an opportunity to the parties to lead evidence and then proceed to record his opinion in favour or against the claim set out in the petition. The Court further expressed its concern that the Executive Officers conferred with the powers of Collector under the Act follow the binding precedents and procedure prescribed by Rule 21-A of the 1964 Rules more in breach than in compliance. It has nowhere been held that all the provisions of CPC would be applicable to the proceedings under Section 11 of the Act, as has been sought to be invoked by the petitioners. In this view of the matter, I find myself unable to accept the submissions of counsel for the petitioners that the provisions of Order VII Rule 11 CPC are applicable to the proceedings initiated under Section 11 of the Act. That being so, I do not find any error much less illegality in the impugned order.

For the aforesaid reasons, finding no merit, the petition is dismissed in limine. No order as to costs.

(Rekha Mittal)
Judge

15.1.2016
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