

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

[1] Civil Writ Petition No.1930 of 2016
Date of Decision: February 01, 2016

Mohan Singh and othersPetitioners

versus

Joint Development Commissioner (IRD) and others
.....Respondents

[2] Civil Writ Petition No.1982 of 2016
Date of Decision: February 01, 2016

Jasvir Kaur and anotherPetitioners

versus

Joint Development Commissioner (IRD) and others
.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE P.B.BAJANTHRI.

Present: Mr.Swarn Tiwana, Advocate, for the petitioners.
Mr.M.K.Singla, Advocate, for the caveator-respondents

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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)

This order shall dispose of Civil Writ Petition Nos.1930 and 1982 of 2016 as common questions of law and facts are involved in both these petitions.

For brevity, the facts are being extracted from CWP No.1930 of 2016.

[2] The petitioners are residents of village Raipur Khurd, Tehsil and District SAS Nagar Mohali. They are said to have purchased the land from the vendees of Gurvinder Singh

son of Jagdev Singh and Bhagwant Singh son of Siha Singh who are residents of village Jhinjran, Tehsil and District Fatehgarh Sahib. Gurvinder Singh and Bhagwant Singh instituted a petition under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short, 'the 1961 Act') claiming themselves to be owners in possession of the land which was fully described in the head-note of their petition and situated within the revenue estate of village Jhinjran, Tehsil and District Fatehgarh Sahib. Their petition was allowed by the Additional Deputy Commissioner (Development)-cum-Collector, Fatehgarh Sahib vide order dated 26.03.2002. The aggrieved Gram Panchayat filed statutory appeal but that was also dismissed. Still aggrieved, the Gram Panchayat approached this Court through Civil Writ Petition Nos.15737, 15738 and 15744 of 2007 which were allowed in part by way of a consent order to the extent that the appellate orders were set-aside and the matter was remitted to the Appellate Authority for afresh adjudication of the appeal(s).

[3] Vide the impugned order dated 26.03.2015, the Appellate Authority has allowed the Gram Panchayat appeal(s) by way of a common order which is now under challenge in the instant writ petition(s).

[4] The Gram Panchayat is on caveat.

[5] We have heard learned counsel for the parties at a considerable length and gone through the record.

[6] We find that the Collector, while accepting the claim of the petitioners, referred to numerous documents exhibited on record as Exhibits P-1 to P-21 as also the documents produced on behalf of the Gram Panchayat; cited

the relevant case-law and then gave his view point on the question of ownership.

[7] Unfortunately, the Appellate Authority has chosen not to discuss any document what to talk of complete documentary evidence on record produced by the parties. The only reason assigned by the Appellate Authority for accepting the claim of the Gram Panchayat is that the petitioners have admitted the fact that they are the subsequent vendees and that the disputed land is 'shamlat deh hasab rasad zar khewat'. At one place, it is also averred that the proprietors have failed to prove their continuing possession since 26.01.1950 which obviously suggests that no opinion has been expressed on the jamabandi for the year 1951-52 (Exhibit P-1).

[8] In these circumstances when the Appellate Authority has proceeded with somewhat casual approach and in total deviation of the settled principles to be observed by a First Appellate Forum, there is little choice except to set-aside the order passed by the Appellate Authority and remit the case again for afresh adjudication.

[9] Ordered accordingly.

[10] The Appellate Authority is directed to answer the issues that arise for adjudication on consideration of the documentary or oral evidence, if any, led by the parties. Such discussion ought to keep in view the legislative scheme of the 1961 Act. Let the appeal(s) be decided as early as possible and preferably within a period of four months from the date of receiving a certified copy of this order.

[11] We make it clear that we have not expressed any views on merits.

[12] The parties are directed to appear before the Joint Development Commissioner (IRD)-cum-Appellate Authority on 29.02.2016.

[13] Till then, the parties are directed to maintain status-quo re: possession and alienation.

[14] Ordered accordingly.

[15] Dasti.

[SURYA KANT]
JUDGE

February 01, 2016
mohinder

[P.B.BAJANTHRI]
JUDGE