

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-15174-1993

Date of Decision: July 19, 2017

Jagan Nath

.....Petitioner

Versus

Gram Panchayat, Dokhera and another

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDHIR MITTAL**

- | | | |
|----|---|---------|
| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

.....

Present: None for the petitioner.

Mr.Nitin Rathee, Advocate
for respondent No.1.

.....

SURYA KANT, J.

This writ petition is directed against the order dated 31.03.1993 passed by the Commissioner, Gurgaon Division, Gurgaon, in purported exercise of revisional powers under Section 13-B of the Punjab Village Common Lands (Regulation) Act, 1961, as was applicable in the State of Haryana (for brevity, 'the 1961 Act') at the relevant time.

[2] The facts are like this:-

[3] The petitioner filed a suit for declaration under Section 13-A of the 1961 Act in the Court of Assistant Collector Ist Grade, Narnaul, claiming, inter alia, that he was owner in possession of the land measuring 27K-13M comprising Khewat No.93, Khatoni No.141 Rect. and Killa

No.8/4/7 Min, 13/21/14-15 min 37/13 situated in the revenue estate of village Dokhera, Tehsil Narnaul, District Mahendergarh. The suit was decreed on 07.09.1982. The matter was, however, remanded by the Collector, Narnaul, vide order dated 21.05.1985 and after one more round of litigation between the parties, the Assistant Collector, Ist Grade, Narnaul, eventually accepted the claim of the petitioner vide order dated 30.04.1991, this time holding that his father Jodha was in physical possession of the land as per Jamabandi for the year 1951-52.

[4] The Gram Panchayat filed appeal but the Collector Mahendergarh, dismissed the same summarily observing that the Gram Panchayat was unnecessarily litigating the matter. Neither the Collector dealt with the case on merit nor on the question of limitation as the petitioner claimed that the appeal was time barred.

[5] Aggrieved Gram Panchayat filed a revision petition against the order dated 29.01.1992 of the Collector Mahendergarh, which was allowed by the Commissioner, Gurgaon Division, Gurgaon, vide impugned order dated 31.03.1993, whereby both the orders passed by the authorities below were set aside and the case was remanded to the Assistant Collector to decide the suit afresh after framing proper issues and after taking evidence on record from both the sides.

[6] The petitioner has challenged the said order in this writ petition. Operation of the impugned order was stayed vide order dated 09.12.1993, which is still operative.

[7] We have heard learned counsel for the parties and gone through the record. The primary contention taken by the petitioner in the writ

petition is that Section 13-B of the 1961 Act, as applicable in the State of Haryana, whereunder a revision petition was maintainable, was omitted from the Statute book in February 1992 and there exists no provision in the Act as on 31.03.1993 under which revision petition could be entertained or decided by the Commissioner, Gurgaon Division, Gurgaon. In the same breath it is also averred on behalf of the petitioner that revision petition was maintainable only in a case of title dispute.

[8] The case in hand is concededly of title dispute as the revision petition has arisen out of a declaratory petition filed by the petitioner under Section 13-A of the 1961 Act. The very object of filing the petition was to get it resolved whether the land in dispute vests in Gram Panchayat or the petitioner was its true owner? Be that as it may, once the objection of jurisdiction was raised on behalf of the petitioner, the Revisional Authority ought to have dealt with the same. Unfortunately, the impugned order does not make any reference to the relevant provisions. There is no discussion in the impugned order to indicate that the Revisional Authority was alive with the issue or had applied its mind. The Revisional Authority ought to have given a specific finding that either by virtue of 'title dispute' being involved or otherwise it was vested with jurisdiction to decide the revision petition on merits.

[9] In the light of the above discussion, we allow the writ petition in part; set aside the revision order dated 31.03.1993 and remit the case to the Commissioner, Gurgaon Division, Gurgaon, for fresh adjudication in the light of the issues that may be raised by the parties as well as on the question

[10] The parties are directed to appear before the Commissioner, Gurgaon Division, Gurgaon, for fresh adjudication on 01.08.2017.

[11] The Revisional Authority shall decide the revision petition afresh within a period of four months from the date of appearance of the parties.

**(SURYA KANT)
JUDGE**

July 19, 2017
meenuss

**(SUDHIR MITTAL)
JUDGE**

- | | | |
|----|-----------------------------|--------|
| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |