

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 11160 of 2012 (O&M)

Date of Decision: 28.04.2017

Ajaib Singh

.....Petitioner

Versus

Director Rural Development & Panchayat, Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Vikas Singh, Advocate
for the petitioner.

Mr. P.S. Bajwa, Addl. AG Punjab.

Mr. Rajinder Sharma, Advocate
for respondent No. 3.

RAJESH BINDAL,J.

1. The petitioner has filed the present petition impugning the order dated 30.4.2010 (Annexure P-3) passed by the Collector, Panchayat Land, Jalandhar and Amritsar, whereby the suit filed by him under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short 'the Act'), was dismissed and order dated 18.5.2011 (Annexure P-5) whereby the appeal was also dismissed.

2. The petitioner in the case in hand claimed that he is owner in possession of 15 kanals 11 marlas of land comprising in Khasra No. 145//3 and 14, situated within the revenue estate of village Bundala, Tehsil and District Amritsar. The claim was made while producing evidence on record in the form of jamabandi for the year 1937-38 and 1954-55, which were depicting the land as shamlat taraf in possession of the petitioner.

Similar was the position in all the jamabandis subsequent thereto. Only the jamabandis from the period 1942-43 and 1947-52 were not available. These

were not found even in record with the State. Without discussing the evidence produced on record by the petitioner after framing issues, the Collector had dismissed the suit filed by the petitioner. There being error in exercise of jurisdiction by the authorities, the order deserves to be set aside and matter be remitted back. In support reliance was placed upon a Division Bench judgment of this Court in "*Gram Panchayat Nanu Majra Versus State of Punjab and others*", 2014 (1) RCR (Civil) 826, and order dated 9.8.2012 passed by this Court in CWP No. 15026 of 2012 titled as "*Sucha Singh and others Versus State of Punjab and others*"

3. On the other hand, learned counsel for the Gram Panchayat, submitted that it is not mandatory to frame issues in all cases once the parties knew the case they are fighting for and the evidence led on record is considered. In support reliance was placed upon a Division Bench judgment of this Court in "*Kapur Singh and others Versus Director, Rural Development and Panchayat, Punjab and others*", 2015 (4) RCR(Civil) 698.

4. Heard learned counsel for the parties and perused the paper book.

5. It is not in dispute that while deciding the suit filed by the petitioner under Section 11 of the Act, deciding the claim of title to the property, the Collector had not framed any issue. Entire evidence led by the petitioner has not been considered. It has been opined in *Gram Panchayat Nanu Majra's case* (supra) and by a Division Bench in "*Arjan Singh Versus State of Punjab and others*", 2013 (31) RCR (Civil) 880, that the quasi judicial authorities while deciding question of title are supposed to exercise jurisdiction akin to a Civil Court after looking into pleadings of the parties

and need to frame issues and thereafter record findings considering the evidence led on record. The procedure having not been followed in the case in hand, the order suffers from patent error and deserves to be set aside.

6. The judgment of this Court in *Kapur Singh's case* (supra) as cited by learned counsel for respondent No.3 is distinguishable on facts where though the issues had not been framed, however, this Court has re-appraised the entire evidence and finding that there was no error as such in the order passed, observed that the aggrieved party has to allege any prejudice suffered for failure to frame issues.

7. In the case in hand, the record being quite old which has been proved in evidence before the authorities below, the same being not available on the Court file in totality, in our opinion, it would be appropriate if the Collector considers the matter afresh, as the same will afford an opportunity to either of the parties to avail of further remedy, where even facts can also be gone into.

8. For the reasons mentioned above, the impugned orders dated 30.4.2010 and 18.5.2011 are set aside and the matter is remitted back to the Collector. Parties are directed to appear before the Collector, on 30.5.2017.

9. The petition stands disposed of.

(RAJESH BINDAL)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

28.04.2017
reema

Whether speaking/reasoned

√
Yes/No

Whether Reportable:

Yes/No