

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP No.7793 of 2014
Date of decision:07.02.2017

Amrik Singh and others ... Petitioners

Vs.

State of Punjab and others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Aakash Singla, Advocate
for the petitioners.

Mr. Yatinder Sharma, Addl. A.G.Punjab.

AMIT RAWAL J. (Oral)

The petitioners are aggrieved of the impugned order dated 12.09.2011 (Annexure P-7) passed by the Collector, Sub Division, District Patiala, accepting the eviction petition under Sections 4 and 5 of Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 (hereinafter referred to as "1973 Act") and the order dated 04.07.2012, whereby, the appeal entertained by the Deputy Commissioner, Patiala, which according to the petitioners, should have been entertained by the Commissioner, has been dismissed.

The precise contention of Mr. Aakash Singla, learned counsel for the petitioners is that in pursuance to the petition filed aforementioned, the objection with regard to maintainability of the title of the State was assailed as the petitioners are stated to have allotted the land by way of *sanad* (Annexure P-1) and subsequent orders, the revenue record and

jamabandi, in essence, the Collector was enjoined upon an obligation to frame the issue and give effective opportunity, thus, there was no compliance of Section 5 of 1973 Act.

In support of his aforementioned contention, he relies upon the ratio decidendi culled out by the Hon'ble Full Bench of this Court in **Balwant Kaur vs. Chief Settlement Commissioner (Lands) 1964 AIR Punjab 33** and **Harbhajan Singh alias Bhajan Singh vs. State of Punjab 1991(2) RRR 314**, wherein, it has been held that issues can always be framed, particularly, where the issue of title is involved.

He has drawn the attention of this Court to the impugned order, whereby, though the contention of learned counsel for the petitioners representing them has been noticed but there is no adjudication, much less no reasoning has been given.

The aforementioned fact is not disputed by Mr. Yatinder Sharma, learned Additional Advocate General, Punjab, though the other arguments of Mr. Singla have been rebutted with a lot of vehemence. He further submits that it is the department who is owner of the land. The factum of the same has been indicated in the impugned order.

Be that as it may, the fact remains that once the petitioners had already taken their defence, much less, the respondents had been claiming ownership on the basis of the notification, it was incumbent upon the authorities below to decide the controversy by framing the issues. The aforementioned view of mine is derived from the ratio decidendi culled out

by this Court in *Sarjiwan Tiwari vs. Punjab State Electricity Board 1998*
(2) RCR (Civil) 2.

Resultantly, the orders under challenge are hereby set aside and the matter is remitted back to the Collector to decide the same afresh as expeditiously as possible preferably within a period of 1 ½ years after affording 6-6 effective opportunities to the parties to the lis, from the date of receipt of a certified copy of this order.

Accordingly, the writ petition stands allowed.

(AMIT RAWAL)
JUDGE

February 07, 2017
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No