

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 9660 of 2014 (O&M)

Date of Decision: 18.04.2017

Gram Panchayat Bishanpura

.....Petitioner

Versus

Director Rural Development and Panchayat and others

.....Respondents

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

Present: Mr. Nakul Sharma, Advocate
for the petitioner.

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

Mr. Hardip Singh, Advocate and
Mr. Harpinder Singh, Advocate for
Mr. Sandeep Punchhi, Advocate
for respondent No. 3.

RAJESH BINDAL,J.

1. The grievance of the petitioner is that the suit filed by respondent No.3 under Section 11 of the Punjab Village Common Lands (Regulation), Act, 1961, (for short 'the Act') has been decided by the Collector vide order dated 9.2.2005 without framing issues which he was bound to frame as dispute of title was involved and order dated 11.1.2008, whereby the appeal filed by the petitioner was dismissed.

2. 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*"

He further submitted that even from the material placed on

record by respondent No. 3, it could not be established that he was in possession of the land before 1950. Contradictory plea had been taken. Earlier the claim was that he was Proprietor of the village and when the same could not be proved, plea was taken that he was in possession before 1950. These issues could be dealt with by the Collector only if specific issues were framed and the evidence led issue-wise, was considered.

4. On the other hand, learned counsel for respondent No.3 submitted that entire material produced on record by the parties has been discussed in the order passed by the Collector, which has been upheld by the Director. There is no error in exercise of jurisdiction. However, he did not dispute the fact that in terms of the judgment referred to by learned counsel for the petitioner in a suit filed under Section 11 of the Act, the Collector should have framed issues.

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

6. 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.

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 9.2.2005 and 11.1.2008 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

18.04.2017
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Whether speaking/reasoned	√ Yes/No
Whether Reportable:	Yes/No