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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No. 17729 of 1994
Decided on: 22.01.2018**

Gram Panchayat Village Naraingarh**.....Petitioner**

versus

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

**CORAM: HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE RAJBIR SEHRAWAT**

Present: Mr. V.K.Sandhir, Advocate &
Mr. M.L.Saini, Advocate
for the petitioner.

Ms. Aarti, Advocate
for Mr. Rajiv Kataria, Advocate
for respondent No. 2.

MAHESH GROVER, J(ORAL)

This writ petition has been filed by the Gram Panchayat impugning the order dated 27.04.1989. The private respondents who were in possession of certain area of Gram Panchayat, recorded as *Shamlat Deh* in revenue records. The private respondents, on the other hand, contended that their ancestors were in possession of this land since long and even after consolidation, their possession was not disturbed. In support of their plea, the respondents placed on record several documents from where the Collector concluded the possession to be of the respondents. The Panchayat, on the other hand, produced only a singular document referred to as A-2 in the impugned order, the jamabandi of the year 1951-52, but no subsequent record even after consolidation was produced.

Before us, a question has been raised that the proceedings under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 initiated by the Gram Panchayat and the proceedings under Section 11 initiated by the respondents were clubbed together, which has caused a prejudice to the outcome of the proceedings; considering that proceedings under Section 11 have to be tried as a regular suit whereas under Section 7 of the Act contemplates a summary proceeding.

There would be no doubt or any quarrel with the issue. But we notice from the proceedings that at no stage thereof, an objection was raised by the petitioner to this effect and rather it is recorded and not disputed before us, that the parties had agreed to such a course. Even if one was to accept that, the consent of the parties could not have given the authorities right to proceed in a manner, contrary in law, the fact would still remain that the petitioner never produced any evidence on record except the one referred to as Annexure-2. Even before us, nothing has been shown, suggesting the ownership of the Gram Panchayat. In this view of the matter, when the parties have been litigating since long and the relevant material which has been noticed in the order of the Collector as extracted from the impugned order indicates continuous possession of the respondents, it would be really a futile exercise to remit the matter back for the procedural defects. The relevant portion of the order of the Collector reads as below:-

“After hearing learned counsel for both the parties and perusal of the documentary evidence I came to the conclusion that a copy of the Jamabandi Sammat 2000-2001 (year 1943-44 Exp.-II) and copy of jamabandi of the year 1951-52 Ex.P-3 shown the possession of the ancestral of the applicant and the same land was put in hotch-potch during the consolidation and in lieu of the disputed land was allotted to the elders of the applicant. It is also clear from the copy of the Misal Haquit of the year 1957-58 which

has been prepared immediately after the completion of consolidation. After consolidation the elder/applicant are coming into possession of the disputed land it is also proved from the copy of the jamabandi of the year 1959-60 Exp-P-5 copy of the jamabandi year 1963-64, 1969-70, 1974-75, khasra Girdawari of the year 1980-81, jamabandi of the year 1983-84 Ex.P-6 to 11. From these facts it becomes apparently clear the possession of the applicant over the disputed land is prior to 12 years of the commencement of the act meaning thereby the applicant is in possession before the year 1949 continuously so the application filed by applicant Jasmer Singh under Section 11 is hereby accepted and the application of the Gram Panchayat under Section 7 regarding the disputed land is hereby dismissed.”

We are convinced that this procedural deformity would not enhance the case of petitioner, particularly, when the respondents have been in possession for more than five decades and the Gram Panchayat has not produced any evidence.

In view of the above, this petition stands dismissed.

(MAHESH GROVER)
JUDGE

(RAJBIR SEHRAWAT)
JUDGE

22nd January, 2018
shabha

<i>Whether speaking/reasoned</i>	-	<i>Yes/No</i>
<i>Whether reportable</i>	-	<i>Yes/No</i>