

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

(1) CWP No.3480 of 2017 (O&M)

Gram Panchayat Jhinjran, Tehsil and District Fatehgarh Sahib
through its Sarpanch-Sarabjeet Singh

....Petitioner

Versus

Joint Development Commissioner (IRD),
SAS Nagar Mohali and others

....Respondents

(2) CWP No.4091 of 2017 (O&M)

Gram Panchayat Jhinjran, Tehsil and District Fatehgarh Sahib
through its Sarpanch-Sarabjeet Singh

....Petitioner

Versus

Joint Development Commissioner (IRD),
SAS Nagar Mohali and others

....Respondents

(3) CWP No.4112 of 2017 (O&M)

Gram Panchayat Jhinjran, Tehsil and District Fatehgarh Sahib
through its Sarpanch-Sarabjeet Singh

....Petitioner

Versus

Joint Development Commissioner (IRD),
SAS Nagar Mohali and others

....Respondents

Date of Decision: 23.08.2018

**CORAM: HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**

Present:- Mr. Manish Kumar Singla, Advocate for the petitioner.

Mr. Shireesh Gupta, Sr. Deputy Advocate General, Punjab
for respondent Nos.1 and 2.

None for respondent Nos.3 to 7.

MAHESH GROVER, J. (Oral)

This order shall dispose of the aforesaid three writ petitions.

Facts are taken from CWP No.3480 of 2017.

Despite opportunities given, the private respondents have not filed the reply. Their defence is accordingly struck off. There is no representation on their behalf as well.

Petitions under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (*hereinafter to be referred as 'the Act'*) were filed by the alleged vendors of the private respondents claiming title to the land. The Gram Panchayat came out to this Court by way of CWP No.15737 of 2007 praying that orders dated 26.03.2002 and 18.08.2006, passed by the Collector/Additional Deputy Commissioner (Development), Fatehgarh Sahib and the Director Rural Development and Panchayats, Punjab (exercising the powers of the 'Commissioner'), respectively, be quashed. The Writ Court set aside the impugned orders, vide order dated 10.12.2012 (**Annexure P-3**) and remitted the matter back to the Director Rural Development and Panchayats, Punjab (exercising the powers of the Commissioner) to decide the appeal afresh, whereafter, an order was passed in favour of the Gram Panchayat by accepting the appeal. This was challenged by the private respondents by way of CWP No.1930 of 2016, decided on 01.02.2016 (**Annexure P-5**), in the following terms:-

“ [10] The Appellate Authority is directed to answer the issues that arise for adjudication on consideration of the documentary or oral evidence, if any, led by the parties. Such discussion ought to keep in view the legislative scheme of the 1961 Act. Let the appeal(s) be decided as early as possible and preferably within a period of four months from the date of receiving a certified copy of this order.

[11] We make it clear that we have not expressed any views on merits. ”

The orders impugned in the present writ petitions are a result of that decision.

Learned Counsel for the petitioner/Gram Panchayat asserts that the impugned orders dated 26.03.2002 (**Annexure P-1**) and 15.09.2016 (**Annexure P-6**) cannot be sustained in view of the procedure as contemplated under Section 11 of the Act and a Division Bench's judgment of this Court reported as '**Gram Panchayat Nanu Majra Versus State of Punjab and others, 2014 (1) R.C.R. (Civil) 826**'.

It is contended that none of the private respondents could produce any evidence of sale in their favour, rather no document of title from any of the vendors was produced, which ought to have been significant considering the multiple transactions of sale, flowing from one party to another.

The private respondents have not filed the reply despite the fact that opportunities were given to them and today, we have directed that their defence is struck off, particularly, we noticed on 18.12.2017 that the matter would be decided in the event of their reply not coming on the record.

After hearing learned Counsel for the petitioner/Gram Panchayat, we are of the opinion that the revenue authorities have once again defaulted in not adhering to the procedure as envisaged under Section 11 of the Act. No issues have been framed in regard to the controversy raised before the Authorities and neither any evidence has been properly discussed. The Authorities could not have cursorily decided the issue of title. The fundamental question of title on the basis of sale would presuppose some document in executed transaction, in that regard. We do not find any such

document mentioned in the impugned order or considered by the said Authority. We would, therefore, set aside the impugned orders and direct the A.D.C.-cum-Collector, Fatehgarh Sahib to decide the matter afresh by framing issues and after examining the evidence, which shall be done now positively within a period of four months, considering that the parties have been litigating since long and this is third round. The parties shall be appear before the ADC-cum-Collector, Fatehgarh Sahib on 11.09.2018.

Disposed of in the above terms.

(MAHESH GROVER)
JUDGE

August 23, 2018
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>