

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

209

**CWP No.21797 of 2017
Date of Decision : 04.09.2019**

Chhinder Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI**

Present : Mr. P.S. Kanwar, Advocate for the petitioner.

Mr. Amit Mehta, Sr. DAG, Punjab.

Mr. H.S. Hisowal, Advocate for the respondent.

RAKESH KUMAR JAIN, J. (ORAL)

The petitioner has challenged the orders dated 18.12.2015 and 21.07.2017 by which a suit filed under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 has been dismissed and the appeal against it has been dismissed as well. It is submitted that the suit of the petitioner has been dismissed by the Collector without there being any reply filed to it and on the application filed by the respondent that the petitioner has filed earlier suit for permanent injunction in which he has claimed himself to be a tenant/sub-tenant.

It is submitted by the counsel for the petitioner that the suit filed under Section 11 could not have been dismissed summarily and has to be tried after giving an opportunity of hearing to lead evidence both oral as well as documentary to prove title over the property in dispute.

Counsel for the respondent could not deny this fact as it has not provided opportunity of leading evidence.

Thus, keeping in view the aforesaid facts and circumstances, we are of the considered opinion that the approach of the learned Collector and also of the Commissioner are erroneous in law and therefore, both the orders are set aside and matter is remanded back to the Collector to decide the same after affording adequate opportunity to the petitioner to prove his case that the land in dispute does not vest in the Panchayat and is owned by him.

It is needless to mention that the petition filed under Section 11 of the Act has to be treated by the Collector as a suit and sufficient opportunity has to be given to the parties to prove their case. The parties are directed to appear before the Collector on 30.09.2019. The Collector shall make all endeavours to decided the suit expeditiously but preferably within a period of six months.

(RAKESH KUMAR JAIN)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

04.09.2019
Kothiyal

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No