

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 35440 of 2019 (O&M)
Date of Decision:30.08.2022

Ram Singh and another

.....Petitioners

Versus

Joint Development Commissioner and others

..... Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. K.S.Saini, Advocate
for Mr. Amandeep Saini, Advocate
for the petitioners.

Mr. Sandeep Jain, Addl.AG., Punjab.

None for respondent no.2.

Mr. A.P.Kaushal, Advocate
for respondent no.3.

LISA GILL, J(Oral).

Prayer in this writ petition is for setting aside order dated 07.08.2019, Annexure P-15, passed by the learned Joint Development Commissioner (I.R.D), Punjab, Vikas Bhawan, Sector-62, SAS Nagar (Exercising the powers of Commissioner), whereby order dated 19.10.2016 passed by the Collector, Rupnagar, has been set aside on an appeal filed by the respondent-Gram Panchayat village Patti, Tehsil Nangal, District Rupnagar and private respondents namely Gurbachan Lal and Bhajan Lal.

Learned counsel for the petitioners submits that the well reasoned and logical order dated 19.10.2016, passed by the learned Collector, Rupnagar, has been set aside by the learned Joint Development Commissioner, Punjab, by passing a totally non-speaking order which

reflects total non application of mind. It is thus prayed that impugned order dated 07.08.2019, passed by the learned Joint Development Commissioner, Punjab, be set aside.

It is noticed that no reply has been filed on behalf of respondent no.2 neither is there any representation on behalf of the said respondent as before. However, in the given facts and circumstances, we do not find any ground for adjourning the matter on this count.

Heard.

Application under Section 11 of the Punjab Village Common Land (Regulation) Act, 1961, filed by the petitioners was allowed by learned Additional Deputy Commissioner (Development), Rupnagar, while exercising the powers of Collector, vide order dated 19.10.2016. Four issues were framed by the said authority, which read as under:-

- “1. Whether the land in dispute is in possession of the petitioners through their predecessors before 26.01.1950 continuously? OPP
2. Whether the land in dispute was ever given on Chokata or Batai or Theka by the Gram Panchayat? OPR
3. Whether the land in dispute was ever got reserved by the Gram Panchayat for the common purposes of the village or the same used for the common purposes of the village? OPR
4. Relief.”

Petitioners claim was accepted and petitioners were declared owners of the land in question measuring 14 Kanals 9 Marlas. Appeal filed by the Gram Panchayat village Patti, Tehsil Nangal, District Rupnagar, Gurbachan Lal and Bhajan Lal was allowed by the learned Joint Development Commissioner, Punjab, vide impugned order dated 07.08.2019 while observing as under:-

“After perusal of written arguments of the counsel and perusal of record on the file of lower Court, I come to the conclusion that the court below framed 5 issues on 04.03.2016, but through order under challenge only decision has been rendered on 4 issues. It is clear from the order under challenge that, as per framed issue no.4 to the effect that the land in dispute is vest in the Gram Panchayat, is no finding on this issue. So it is clear from the order of lower Court, in framing the issue with regard to ownership has not been rendered any finding. In this way the order passed by the lower Court is not acceptable. Therefore, the order under challenge is set aside with the direction to the lower Court that after providing opportunity to the parties and on the basis of pleading, the press order be passed.”

Perusal of abovesaid order indeed reveals non application of mind as it is a matter of record that only four issues were framed by the learned Collector whereas observations of learned Joint Development Commissioner are blissfully oblivious thereto. None of the contentions as raised have been discussed by the learned Joint Development Commissioner. It was incumbent upon the Appellate Authority to have carefully considered the facts, grounds of appeal as well as the stand of the present petitioners and then passed a logical, speaking order in accordance with the provisions of law.

Learned counsel for the respondents are unable to deny that in the given factual matrix, order dated 07.08.2019, Annexure P-15, is unsustainable.

Accordingly, order dated 07.08.2019, Annexure P-15, is set aside and the matter remanded to the Joint Development Commissioner,

Punjab, to be decided afresh in accordance with law after affording due opportunity to all the concerned/affected parties within a period of four (04) months from receipt of certified copy of this order.

Writ petition is accordingly disposed of.

**(LISA GILL)
JUDGE**

August 30, 2022.
s.khan

**(HARSH BUNGER)
JUDGE**

Whether speaking/reasoned : Yes/No.
Whether reportable : Yes/No.