

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 35601 of 2019 (O&M)

Date of Decision:29.08.2022

Gram Panchayat of Village Bugge

.....Petitioner

Versus

State of Punjab and others

..... Respondents

AND

CWP No. 35706 of 2019 (O&M)

Gram Panchayat of Village Bugge

.....Petitioner

Versus

State of Punjab and others

..... Respondents

AND

CWP No. 35669 of 2019 (O&M)

Gram Panchayat of Village Bugge

.....Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Nakul Sharma, Advocate
for the petitioner(s).

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

Mr. C.L. Premy, Advocate
for respondents no.2 and 3.

LISA GILL, J(Oral).

This order shall dispose of CWP Nos. 35601, 35706 and 35669 of 2019, filed by the Gram Panchayat of village Bugge, Block and District Tarn Taran.

Issue sought to be raised in all these writ petitions is whether petition/s under Section 11 of the Punjab Village Common Land (Regulation) Act, 1961 (for short 'the Act'), filed by the private respondents was/were incorrectly allowed by the authorities without framing of issues and allowing an opportunity to the parties to lead evidence.

It is stated that private respondents in these writ petitions filed petition/s under Section 11 of the Act. Sarpanch of the Gram Panchayat, it is stated had personal interest in the said cases, due to which written statement was filed completely admitting the case of private respondents. When Block Development Officer, Tarn Taran, came to know about this fact, request was made before the learned Collector, Tarn Taran for issuance of approval for pursuing the case through Mr. Manjinder Singh, Social Education and Panchayat Officer instead of Gram Panchayat. Thereafter, written statement was filed through Mr. Manjinder Singh, Social Education and Panchayat Officer, denying the claim of private respondents. It is stated that learned Collector Tarn Taran without framing issues and without affording opportunity to the petitioner to lead evidence erroneously allowed the petitions under Section 11 of the Act solely on the ground that land in dispute is proved to be in possession of private respondents. Appeal filed by the petitioner-Gram Panchayat challenging order dated 24.04.2017 was summarily dismissed by the learned Commissioner vide order dated 03.05.2019 issued on 02.08.2019.

Aggrieved therefrom, present writ petitions have been filed by

the Gram Panchayat.

It is submitted that private respondents claim to be subsequent purchasers of the property in question. It is asserted by learned counsel for the petitioner(s) that there is no evidence on record to indicate that predecessors-in-interest of the private respondents in all the three writ petitions at the relevant time were in possession of the land in question, which was purchased by said private respondents.

Be that as it may, learned counsel for private respondents is unable to deny that issues had not been framed neither the parties afforded any opportunity to lead evidence to prove their case before the learned Collector. Appellate authority dismissed the appeals filed by the petitioner without adverting to this aspect while affirming the order passed by the learned Collector. It is a settled position of law that petition under Section 11 of the Act has to be decided by the quasi-judicial authority akin to a suit. Reference can gainfully be made to decision of the Division Bench of this Court in **Gram Panchayat Nanu Majra Vs. State of Punjab and others, 2014 (1) R.C.R (Civil) 826** and **Parkash Singh and others Vs. Joint Development Commissioner (IRD) and others, CWP No. 21732 of 2017, decided on 20.11.2017**. Division Bench of this High Court in **Parkash Singh's case (supra)** has held as under:-

“8. This Court cannot be oblivious of the fact that the jurisdiction vested under Section 11 of the 1961 Act is a substitute of the Civil Court for the adjudication of title disputes. It is thus imperative upon the Collector not only to frame the issues but also to discuss the oral and documentary evidence threadbare and then return a finding of fact as to whether the land vests in Gram Panchayat or it is owned by the proprietors.”

Learned counsel for the petitioner(s) as well as private

respondents are *ad idem* that impugned orders dated 03.05.2019, Annexure P-7 and 24.07.2017, Annexure P-5, be set aside and the matter be decided afresh by the Collector, Tarn Taran in accordance with law after framing of issues and affording an opportunity to each respective side to lead evidence, in a time bound manner.

Keeping in view the facts and circumstances as above as well as the consensus arrived at between the parties, impugned orders dated 03.05.2019, Annexure P-7 and 24.04.2017, Annexure P-5, are set aside and the matter remanded to the Collector, Tarn Taran to decide the same afresh after framing issues on the basis of pleadings of the parties and affording them opportunity to lead evidence in accordance with law within a period of six months from receipt of certified copy of this order.

Till then, parties shall not change the nature of the property or create any third party rights therein.

Writ petitions are accordingly disposed of.

(LISA GILL)
JUDGE

(HARSH BUNGER)
JUDGE

August 29, 2022.

s.khan

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