

222 **IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

CWP-16483-1997

Date of Decision : 21.02.2024

RAMESHWAR DASS

.....Petitioner

Versus

**JOINT DEVELOPMENT COMMISSIONER (IRD) PUNJAB AND
OTHERS**

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present : Mr. A.P.Kaushal, Advocate
for the petitioner.

Mr. Maninder Singh, Sr. DAG, Punjab.

SURESHWAR THAKUR, J. (Oral)

1. The plaintiff, petitioner herein filed an application under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 before the Collector concerned against the Gram Panchayat concerned, seeking the espoused decree of his being the owner of the shop constructed on khasra No. 145.

2. Through an order made thereons, on 13.12.1994 (Annexure P-2), the learned Collector concerned granted the espoused declaratory decree to the plaintiff, declaring him as the owner of the disputed plot.

3. Feeling aggrieved thereagainst, the Gram Panchayat filed an appeal before the Appellate Authority concerned. The said appeal was barred by limitation. However, through an order dated 01.02.1996 (Annexure P-8), the said delay in filing of the appeal was condoned.

4. Furthermore, through an order made, on 04.04.1996 (Annexure P-9), on the apposite appeal, the same became allowed and the Gram Panchayat was declared as the owner of the disputed lands.

5. The drawing of the above dis-affirmative verdict (Annexure P-9), by the learned Appellate Authority concerned, has caused pain to the petitioner herein and has led him to institute thereagainst the instant writ petition before this Court.

6. On a reading of Annexure P-2, and, the impugned Annexure P-9, as became respectively drawn by the Collector concerned, and, by the appellate authority concerned, on the apposite title suit, and on the appeal, it is but expressly clear that both of them were sketchily, and, cryptically drawn, thus without any issues being struck, despite a dispute becoming raised by the plaintiff therein vis-a-vis his ownership over the disputed lands.

7. Contrarily, it appears, that merely on a cursory reading of the records, hence through Annexure P-2, the Collector concerned, rather in a most summary manner granted the espoused declaratory decree to the plaintiff, and, further in appeal being preferred thereagainst by the Gram Panchayat, the Appellate Authority concerned, through Annexure P-9, declined the said espoused decree to the plaintiff and declared the Gram Panchayat as owner over the disputed lands.

8. From a close reading of both the above Annexures, it appears that neither any issue became struck on the contentious pleadings laid before the authorities concerned, nor any evidence discharging onus became cast thereons, rather it was imperative for the

authorities concerned, to formulate issues for the relevant evidence adducing onus becoming cast upon the litigants concerned.

9. The reason for making the above conclusion stems from the factum, that in the special statute (supra), there is no specific procedure regulating the trial of the petitions, as become laid before the statutory authorities constituted therein, thereby but obviously the procedure for regulating the entering upon trial of a motion laid under the statute (supra) before the statutory authorities concerned, but is regulated by the provisions as cast under the CPC.

10. The manner of adjudication being made, upon, the said motion(s) by the statutory authorities below, is required, to be deprecated, as it became enjoined to after inviting response(s) from the respondent concerned, to thereafter strike issues on the contested pleadings, and, to thereafter formulate issues whereafter it became imperative, upon them to cast the evidence adducing onus, upon the litigants concerned.

11. Paramountly since the above did not happen. Therefore, as stated (supra), but in an slipshod and hasty manner besides with *prima facie*, ill informed reason, the verdict(s) (supra) became passed.

12. Consequently, the petition is allowed, and, the order (Annexure P-2) passed by the Collector concerned, as well as, the impugned order Annexure P-9 are quashed and set aside, and, the *lis* is remanded to the Collector concerned, who on receiving the same, shall restore the *lis* to its original number, and, it is further directed that he shall after inviting a response on the said petition/suit from the

respondent concerned, to thereafter strike issues, and to subsequently permit the aggrieved litigant(s) concerned, to adduce evidence thereons.

13. Subsequently, a valid decision, in accordance with law, shall be made on the said petition/suit, by the Collector concerned, within a period of three months but after hearing all affected persons concerned.

(SURESHWAR THAKUR)
JUDGE

21.02.2024
kavneet singh

(SUKHVINDER KAUR)
JUDGE

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