
(1993) 07 P&H CK 0114

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 11645 of 1992

Nant Singh

APPELLANT

Vs

Joint Director Panchayat

RESPONDENT

Date of Decision : 27-07-1993

Acts Referred:

Punjab Village Common Lands (Regulation) Act, 1961 — Section 11

Citation : (1993) 105 PLR 729

Hon'ble Judges : H.S. Brar, J;A.P. Chowdhri, J

Bench : Division Bench

Advocate : M.S. Rahi, for the Appellant; Rajiv Kataria and K.S. Rupal, for the Respondent

Judgement

A.P. Chowdhri and H.S. Brar, JJ.—The dispute in this case relates to a portion of EFGD shown in red colour in the site plan (Ann.P.1) on the northern side of plot. According to the petitioner, the side piece of land is an adjunct of the main plot and is his private property which he purchased by a registered sale-deed dated 3.6.1956. The case of the Gram Panchayat respondent No. 2 on the other hand, is that the side land was portion of a public street going upto the house of Narain Singh, respondent No. 3. Further, according to the Gram Panchayat, the said public street goes further upto a School. The question of title with regard to the said piece of land was gone into by the Collector. By order dated 19.7.1990. (Annexure P.5), he held that the said piece of land was a part of the public path and as such vested in the Gram Panchayat. Aggrieved by the order, the petitioner preferred an appeal which was dismissed by the Joint Director, Panchayats vide order dated 31.1.1992. (Annexure P.8). The grievance of the petitioner is that the question of title could not be decided in a summary manner and it was mandatory for the Collector to have framed necessary issues and to have recorded evidence of both the parties and recorded a finding thereon. It is not disputed that the issues were not framed by the Collector. The question arising for consideration is whether to what extent, the provisions of the CPC apply to the proceedings u/s 11 of the Punjab Village Common Lands (Regulation) Act,

1961. After hearing the learned counsel for the parties, we entertain no doubt that the proceedings contemplated are not summary in nature. There can be no doubt or debate that the principles underlying various provisions of the CPC have to be complied with for the determination of the question of title. This has not been done.

2. In the facts and circumstances of the present case, we allow the writ petition, set aside both the impugned orders of the Collector as well as of the Joint Director referred to above and remand the case to the Collector for a fresh decision according to law with the direction that he shall first re-enter the case against its original number and frame necessary issues and then after recording evidence of both the parties decide the matter afresh according to law within a period of six months from the date of appearance of the parties before him. The parties through their counsel are directed to appear before the Collector, Ropar for the purpose on 10.8.1993. A copy of this order be sent to the Collector concerned for information and compliance. The writ petition stands disposed of in these terms.