

*Before Rajive Bhalla,
Paramjeet Singh &
Jaspal Singh, JJ.*

GURDIAL SINGH—*Petitioner*

versus

**ADDITIONAL DIRECTOR PANCHAYATS (EXERCISING
THE POWERS OF COMMISSIONER), PUNJAB,
CHANDIGARH AND ANOTHER**—*Respondents*

CWP No. 5265 of 1992

May 29, 2014

Punjab Village Common Lands (Regulation) Act, 1961 - Ss. 5, 7 and 11(1) - Punjab Panchayati Raj Act, 1994 - Gram Panchayat petitioned before Collector for ejection - Application dismissed - Appeal there against accepted - Before writ court, panchayat's competence to file petition challenged - Question referred to larger bench - Held, the words "any person" are very wide and extend to any or all having interest in the land - The expression "any person" in section 11, prior to 1993 amendment - Has been used in the widest term, which includes the panchayat - The rights vest in panchayat as well as in any other person - Not confined to the persons who are other than panchayat - Reference answered.

Held, that Section 11(1) of the Act, it is in two parts. The main part refers to the right, title or interest in any land vested or deemed to have been vested in the panchayat under this Act and the second part is in the nature of negative clause that any land has not so vested in panchayat and the words "any person" and "panchayat" in Section 11(2) have been used separately, which indicates that in the earlier part i.e. Section 11(1) words "any person" also include panchayat. Words "any" and "person" are significant. Both are of wide amplitude. The dictionary defines the word "any" to mean one or some or all. In Black's Law Dictionary it is explained thus, "word 'any' has a diversity of meaning and may be employed to indicate 'all' or 'every' as well as 'some' or 'one' and its meaning in a given statute depends upon the context and the subject-matter of the statute". The use of word "any" prior to word

“person” in the text of statute has been used in the context to indicate that it has been used in wider sense extending from one to all, including panchayat. The word “person” has been defined in Section 3 (42) of the General Clauses Act 1897 thus, “person” shall include any company or association or body of individuals, whether incorporated or not and in Section 2(47) of the Punjab General Clauses Act definition of word “person” is verbatim the same as defined in General Clauses Act, 1897. Section 2(e) of the Act defines “panchayat” and under the Gram Panchayat Act, 1952 it is defined in Section 3(ii). Under the old Act of 1952 panchayat was constituted under Section 6 and under the new Act of 1994 it is constituted under Section 10 and in the Act of 1994 definition of panchayat has been given in Section 2(zj). In view of Section 10 of the Punjab Panchayati Raj Act, 1994 read with Sections 5 and 6 of the 1952 Act “gram panchayat” is “a body corporate having perpetual succession and common seal”, as such comes within the definition of “person”. Thus, words “any person” are very wide and extend to any or all having interest in the land specifically when the Act itself provides for management and control over the land under the Rules framed thereunder.

(Para 10)

Further held, that the expression ‘any person’ in Section 11 has been used in widest term, which includes the panchayat which is intimately connected in the affairs of village and management of the shamilat land under the provisions of the Act. This fact is further strengthened by the fact that in the year 1993 amendment was made in the Act and after the words ‘any person’ appearing in Section 11(1) words ‘or panchayat’ have been added and the word “panchayat” was already existing in Section 11(2) meaning thereby the rights vest in panchayat as well as in any other person. It is not confined to the persons who are other than panchayat.

(Para 11)

Sarjit Singh Sr. Advocate and I.K. Pannu, Advocate, *for the petitioner(s)*.

Rajesh Bhardwaj, Addl. A.G., and M.L. Saini, Advocate, *for the respondent No. 2.*

PARAMJEET SINGH, J.

(1) Civil writ petitions No.5265, 5343 and 5271 of 1992 were taken up together by a Division Bench of this Court as they involved adjudication of common question of law.

(2) The question of law that arises for consideration in these writ petitions, directed against the orders passed by Additional Director Panchayats, Punjab, exercising the powers of Commissioner under the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as 'the Act'), is whether the statutory authority known as a "panchayat", constituted under the Punjab Gram Panchayat Act, 1952 (now Punjab Panchayati Raj Act 1994), to carry out management and control of various kinds of land in the revenue estate, is covered under words "**any person**" and competent to file petition under Section 11 read with Section 7 of the Act? The question has arisen, as before Section 11 was amended to include a "panchayat" the words "**any person**" were interpreted to exclude a panchayat from the right to file a petition under Section 11 of the Act. At the time of arguments before the Division Bench, an earlier decision of Division Bench of this Court in *Gurnam Singh v. The District Development Officer (Collector) Patiala and another(1)*, regarding interpretation of word "any person" appearing in Section 11 of the Act was relied upon but the Division Bench doubted its correctness, hence, referred the matter to Larger Bench. The Division Bench while making reference passed the following order: -

"Civil Writ Petition Nos.5265, 5271 and 5343 of 1992, are being taken up together as they involve adjudication of a common question of law.

Counsel for the petitioner contends that as on the date of filing of petition, Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as 'the 1961 Act'), the Gram Panchayat was not empowered to file a petition under Section 11 of the 1961 Act, the impugned orders may be set aside. Reliance for the above argument is placed upon a Division

Bench judgment in Gurnam Singh v. The District Development Officer (Collector) Patiala and another 1988, P.L.J.,497.

We have heard counsel for the parties, perused Section 11 of the 1961 Act and the judgment in Gurnam Singh v. The District Development Officer (Collector) Patiala and another (supra). A relevant extract from the judgment, reads as follows:-

7. *No decision of this Court except some observations by J.V.Gupta, J., in The Gram Panchyat village Salem Shah v. Sadhu Ram, 1987 PLJ 414, has been brought to our notice wherein it may have been held that if the person in possession raises any question whether any property or any right to or interest in any property is or is not shamilat deh vested or deemed to have been vested in a Panchayat, the Collector acting under Section 7 has to stay the proceedings till the question is got decided under Section 11. Gupta, J., in Sadhu Ram's case (supra), however, observed that if the suit land is shwon in the ownership of the Gram Panchayat as per the revenue record, it will be deemed to have been vested in the Gram Panchayat and **any person** who wants to challenge the same, may approach the Collector under Section 11 of the Act. If the shamilat deh as defined in the Act was confined to the lands situated outside the abadi deh or gorah deh the anomaly noticed above could be solved by adopting the view expressed by Gupta, J., but the shamilat deh also includes the streets, lanes, playgrounds, schools, drinking wells or ponds within the abadi deh or gorah deh. No revenue record is maintained regarding the lands or sites situated within the abadi deh or gorah deh. Consequently, if an application is made by the Panchayat for seeking possession of any site within the abadi deh claimed to be used by the village community as street, lane or playground etc. and the person in possession denies such a claim, the Collector has to take a decision after summary enquiry on the respective claims of the parties. such a decision, if goes against the Panchayat,*

it will have no forum to challenge it because the jurisdiction of the Civil Court to go into such a question is barred by Section 13 and the suit under Section 11 by it is not competent. So the view expressed by Gupta, J., would not be a complete remedy to remove the anomaly noticed above.

8. *After thorough consideration of the matter, we have come to the conclusion that the anomaly, could be removed, if at all, only by striking down the provisions of Section 11 being discriminatory but as there is no challenge to the vires of the said section, it is not open to us to consider this matter in detail and express our opinion thereon. So we have no option but to leave the matter for Government to take necessary steps and remove the anomaly by proper amendment.*
9. *In view of our finding that the Panchayat has no right to take proceedings under Section 11 of the Act the last part of the order of the Collector wherein a right has been reserved that the Gram Panchayat, if so chooses, may again file application under the Act after getting the ownership question decided under Section 11 of the Act, is quashed. No costs.”*

*(3) A perusal of the opinion recorded in the aforesaid judgment reveals that the words “**Any person**” appearing in Section 11 of the 1961 Act, have been interpreted to exclude a Gram Panchayat from filing a petition under Section 11 of the 1961 Act. We express our respectful disagreement with the ratio recorded in the aforesaid judgment as the word “person” is defined by Section 3(42) of The General Clauses Act, 1897, to include any company or association or body of individuals, whether incorporated or not, and would, therefore, necessarily include a Gram Panchayat.*

It would, therefore, be appropriate, if the writ petitions are placed before a larger Bench, after obtaining orders in this regard from Hon’ble the Chief Justice.

(4) However, another Division Bench of this Court in ***Naurang Singh v. State of Punjab and others(2)***, considered the view taken in the case of ***Gurnam Singh*** (supra) and observed as under :

“28. Learned counsel for the Gram Panchayat relied on Gurnam Singh v. The District Development Officer (Collector) Patiala and Anr., 1988 P.L.J. 497 in order to contend that Gram Panchayat cannot get its title decided and it is an anomaly that after getting the question of title decided under Section 11 of the Act, the Gram Panchayat would be at liberty to move an application afresh under Section 7 of the Act. Though in this case, the question was purely of academic in view of the decision made on the other questions raised, yet prima-facie, we find no force in the contention of learned counsel for the Gram Panchayat to the effect that in view of the amended Act of 1976, under Section 11, no right has been conferred on the Gram Panchayat, with respect to getting the question of title of Gram Panchayat determined. Reading of Section 11 in its totality and for making sub-sections (1) and (2) operative and not rendering any one of them redundant or contradictory, a right conferred on a person claiming a right title or interest in any land vested or deemed to have been vested in Gram Panchayat under this Act or claiming that any land has not been vested in Gram Panchayat could get his right, title or interest determined by the Collector. Right of appeal has been given to the person agitating the question of title as well as to the Gram Panchayat. Section 12 confirms finality of such an order. Section 13, as referred to above debar the civil Court from determining and adjudicating upon a question with respect to any property of any right or interest in any property or whether any property is or is not Shamilat deh vested or deemed to have been vested in Gram Panchayat under this Act, it categorically leads to an inference that any person has a right to get the question of title determined from the Collector.

29. We may hasten to add that a person described in sub-section (1) cannot be restricted only to a person other than a Panchayat

as in the juristic parlance a Gram Panchayat can be termed as a juristic person who could get its right or title determined. Since operation of the provision is prospective and not retrospective, the rights which have been determined 13 years back cannot be permitted to be reopened in view of the prospective legislation. The judicial decisions cannot be set aside by legislation though the grounds for the same can be set at naught. We may further add that section 11 has not made any attempt to set aside the judicial decision arrived at by a competent authority nor the same has been suggested during the course of arguments. Consequently, we are of the considered view that the Gram Panchayat has a locus standi to get the question of title determined under Section 11 of the Act but prospectively.”

(5) How the dispute arose in these writ petitions needs to be mentioned. Respondent No.2/Gram Panchayat, Mardanheri moved an application under Section 11 read with Section 7 of the Act before the Collector/DDPO, Patiala, for ejection of appellant - Gurdial Singh and others. The application was dismissed by Collector vide order dated 05.08.1987 (Annexure P-1). Against the order of Collector, Gram Panchayat preferred an appeal before the Additional Director, Panchayats, Punjab (exercising the powers of Commissioner), which was accepted vide order dated 31.10.1991 (Annexure P-2) and the order of Collector was set aside. Hence these writ petitions.

(6) Before we ponder upon the legal issue involved in these writ petitions and the reference order, it would be appropriate to deal with the concept of a traditional village in Punjab, which is a fine example of multi-dimensional functional planning. The entire area of a revenue estate (village) consists of abadi deh, gorah deh, shamilat deh and proprietary land. The villages were established by proprietors thereof, who invited labourers, artisans etc. to settle and cultivate their land. The area where both proprietors and settlers lived together started to be known as abadi deh. The planners of the village set apart certain land all around the abadi deh for its future extension, which was named as gorah deh. Besides this, a large chunk of land was set apart for common use of its inhabitants which was known as shamilat deh. In these three types of land, proprietors and settlers (non-proprietors) had equal rights initially

but with the passage of time, proprietors started asserting their right over the land and consequently non-proprietors were deprived of their rights in the land. They were compelled to lead a life of dependency and poverty. Proprietors became owners of the property. Non-proprietors had restricted and limited rights of grazing, collecting firewood etc. in the shamilat deh. Non-proprietors had only limited right of possession upon the site of their dwelling houses in abadi deh. They were not in a position to sell/dispose of the sites of their houses without consent of the proprietors of the village. In fact the Act meets a long felt necessity of non-proprietors and also management and control over the shamilat deh and abadi deh. It needs to be emphasised that importance of the Act lies in promoting welfare of the residents of the village, which includes proprietors and non-proprietors, by enabling them to use the lands in question for welfare of the society at large, including the persons who are not having property of their own. We deem it fit to examine the purpose of the Act; object it seeks to achieve; the object to regulating the rights in shamilat deh and abadi deh and use of shamilat deh and abadi deh, and the duty cast upon the Panchayat to utilise or dispose of the same for the benefit of residents of the village as it will facilitate in comprehending the issue involved and assist in construing various provisions of the Act as well as the words used in the Act. To begin with the preamble of the Act, which affords a useful assistance to ascertain legislative intention, records that it was enacted to consolidate and amend the law regulating the rights in shamilat deh and abadi deh. The use of word “regulating” furnishes key to the minds of legislators of the Act. Various definitions, provisions and the words used therein, which elaborately attempt to achieve the object of this Act have to be construed in this light without departing from the settled view that preamble cannot control otherwise plain meaning of a provision.

(7) The provisions of the Act are aimed at restoring status quo ante and remove the barriers between ‘haves’ and ‘have-nots’ so that inhabitants of the village can live community life as equals. Section 4(1) (b) of the Act has made occupants of houses in abadi deh as absolute owners of sites underneath their houses. No separate provision has been made for vesting of gorah deh land in gram panchayat or its inhabitants except Clause (4) of Section 2(g) of the Act. The said Clause has brought

within the definition of shamilat deh the land used or reserved for the benefit of village community, including streets, lanes, playgrounds, schools, drinking wells or ponds within abadi deh or gorah deh. The remaining land of gorah deh is still governed by the custom of the village.

(8) Before we deal with the reference order, it would be appropriate to state that words “**any person**” appear in following Sections of the 1961 Act: -

“6. Appeal: -

*(1) If **any person** is aggrieved by an act or decision of Panchayat under section 5, he may, within thirty days from the date of such act or decision, appeal to the Collector who may confirm, reverse or modify the act, decision or make such other order as he thinks to be just and proper.*

(2) The appellate order of the Collector shall be final.

8. Saving of existing Possession.-

(1) Where, on any land in the shamilat deh immediately before it vests or is deemed to have been vested in a Panchayat under this Act, a person is in cultivating possession and his uncut and ungathered crops are standing thereon, he shall not be ejected from such land, unless his crops have ripened and he has been allowed reasonable time to harvest them.

*(2) **Any person** (prior to Act No.19 of 1976)*

11. Decision of claims of right, title or interest in Shamilat deh.-

*(1) **Any person** claiming right, title or interest in any land, vested or deemed to have been vested in a panchayat under this Act or claiming that any land has not so vested in a Panchayat, may submit to the Collector, within such time, as may be prescribed, a statement of his claim in writing and signed and verified in the prescribed manner and the Collector shall have jurisdiction to decide such claim in such manner as may be prescribed.*

*(2) **Any person** or a Panchayat aggrieved by an order of the Collector made under sub-section (1) may, within sixty days*

from the date of the order, prefer an appeal to the Commissioner in such form as manner as may be prescribed and the Commissioner may after hearing the appeal, confirm, vary or reverse the order appealed from and may pass such as he deems fit.”

[After amendment vide amendment Act No.25 of 1993 Section 11 reads as under: -

“11. Decision of claims of right, title or interest in Shamilat deh.-

(1) Any person or a Panchayat claiming right, title or interest in any land, vested or deemed to have been vested in a panchayat under this Act or claiming that any land has not so vested in a Panchayat, may submit to the Collector, within such time, as may be prescribed, a statement of his claim in writing and signed and verified in the prescribed manner and the Collector shall have jurisdiction to decide such claim in such manner as may be prescribed.

(2) Any person or a Panchayat aggrieved by an order of the Collector made under sub-section (1) may, within sixty days from the date of the order, prefer an appeal to the Commissioner in such form as manner as may be prescribed and the Commissioner may after hearing the appeal, confirm, vary or reverse the order appealed from and may pass such as he deems fit.]

13A. Penalties and procedure:-

(1) No person shall unless entitled or authorised so to do, by law or by an instrument or by order executed or issued by a competent authority under law, enter into the possession of any land vested or deemed to have been vested in a Panchayat under this Act or having lawfully entered into possession of such land; unlawfully remain in possession thereof, on or after the expiry of the term of such lawful possession, if any.

(2) Any person who contravenes the provisions of sub-section (1) shall, notwithstanding any thing contained in any other law,

be punished with imprisonment for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

(3) Any person who abets an offence punishable under this Act, shall be punished with the punishment provided for the offence.

14. Indemnity:-

No suit, prosecution or other legal proceedings shall lie against the Government or any person or authority for anything done or intended to be done in good faith, in pursuance of the provisions of this Act.”

It would be appropriate to reproduce Section 5 of the Act, which reads as under: -

5. Regulation of use and occupation, etc. of lands vested or deemed to have been vested in Panchayats-

(1) All lands vested or deemed to have been vested in a Panchayat under this Act, shall be utilised or, disposed of by the Panchayat for the benefit of the inhabitants of the village concerned in the manner prescribed.

Provided that where two or more villages have a common Panchayat, Shamilat deh of each village shall be utilised and disposed of, by the Panchayat for the benefit of the inhabitants of that village.

Provided further that where there are two or more Shamilat tikkas in a village, the Shamilat tikka shall be utilised and disposed of, by the Panchayat for the benefit of the inhabitants of that tikka.

Provided further that where the cultivable area of land in Shamilat deh of any village, so vested or deemed to have been vested in panchayat is in excess of two-thirds of the total area of that village (excluding abadi deh) then cultivable area upto the extent of two-thirds of such total area shall be left to the Panchayat and one-half of the remaining cultivable area of Shamilat deh, shall be utilised for the settlement of landless

tenants, any other tenants ejected or to be ejected of that village and the remaining cultivable area shall be utilised for distribution to small land owners of the village by the collector in consultation with the Panchayat, in such manner as may be prescribed.

(2) The area of Shamilat deh to be utilized for the purposes of the third proviso to sub-section (1) shall be demarcated by such officer in consultations with the Panchayat and in such manner as may be prescribed.

(3) The State Government or any officer authorised by it in this behalf may, from time to time, with a view to ensuring compliance with the provision of the second proviso to sub-section (1) or sub-section (2) issue to any panchayat such directions as may be deemed necessary.

(4) Nothing contained in the third proviso to sub-section (1) and in sub-section (2) and sub-section (3) shall apply to the "Hilly area".

(5) Notwithstanding anything contained in the preceding sub-sections, no land vested or deemed to have been vested in the panchayat under this Act, shall be disposed of by way of sale, gift or exchange, so as to have with the Panchayat, cultivable area which is less than fifty per cent of the total cultivable area vested or deemed to have been vested in the Panchayat ."

(9) Perusal of Section 5 of the Act indicates that legislature has to issue a directive to the panchayats as to how the land vested or deemed to have been vested under Section 4 of the Act should be utilized by it. Section 5 of the Act is a guide for proper management of shamilat deh. The use of words "in the manner prescribed" means prescribed by the Act or the Rules framed thereunder and is very significant. Section 5 of the Act shows that legislature intended that shamilat deh should be utilized in the manner that it may break the stranglehold of the proprietors so as to render a sabha area as economically viable primary unit of village governance, which is a foundation of the Republic of India, to ensure that the aim of a welfare State be achieved. In Section 5 of the Act, legislature has used the words and phrase "for the benefit of the inhabitants". For the

purpose of interpreting the provisions and the words “**any person**” appearing in Section 11 and other Sections of the Act, scope of Section 5 is relevant as it talks of use of land vested in panchayat for the benefit of inhabitants of village or tikka in the manner prescribed. “**Any person**” is generally used term in the Act at various places. It appears that it has been used to enlarge the meaning of words or phrases occurring in the body of the statute, and when it is used these words or phrases must be construed as comprehending, not only such things as they signify according to their natural import, but also those things which may infer from the intention of the legislature. It has been approved by Hon’ble Supreme Court in *Regional Director, Employees’ State Insurance Corporation v. High Land Coffee Works of P.F.X. Saldanha and Sons(3)*, wherein the Hon’ble Supreme Court has held as under: -

“The view taken by the High Court seems to be justified. The statement of Objects and Reasons of the Bill which later became the Act 44 of 1966 indicates that the proposed amendment was to bring within the scope of the definition of ‘seasonal factory’, a factory which works for a period of not exceeding seven months in a year- (a) in any process of blending, packing or repacking of tea or coffee; or (b) in such other manufacturing process as the Central Government may, by notification in the Official Gazette, specify. The amendment therefore, was clearly in favour of widening the definition of ‘seasonal factory’. The amendment is in the nature of expansion of the original definition as it is clear from the use of the words ‘include a factory’. The amendment does not restrict the original definition of “seasonal factory” but makes addition thereto by inclusion. The word “include” in the statutory definition is generally used to enlarge the meaning of the preceding words and it is by way of extension, and not with restriction, The word ‘include’ is very generally used in interpretation clauses in order to enlarge the meaning of words or phrases occurring in the body of the statute; and when it is so used, these words or phrases must be construed as comprehending, not only such things as they signify according

(3) (1991) 3 SCC 617

to their natural import but also those things which the interpretation clause declares that they shall include.”

(10) Now adverting to Section 11(1) of the Act, it is in two parts. The main part refers to the right, title or interest in any land vested or deemed to have been vested in the panchayat under this Act and the second part is in the nature of negative clause that any land has not so vested in panchayat and the words “**any person**” and “panchayat” in Section 11(2) have been used separately, which indicates that in the earlier part i.e. Section 11(1) words “**any person**” also include panchayat. Words “any” and “person” are significant. Both are of wide amplitude. The dictionary defines the word “any” to mean one or some or all. In Black’s Law Dictionary it is explained thus, “word ‘any’ has a diversity of meaning and may be employed to indicate ‘all’ or ‘every’ as well as ‘some’ or ‘one’ and its meaning in a given statute depends upon the context and the subject-matter of the statute”. The use of word “any” prior to word “person” in the text of statute has been used in the context to indicate that it has been used in wider sense extending from one to all, including panchayat. The word “person” has been defined in Section 3(42) of the General Clauses Act 1897 thus, “person” shall include any company or association or body of individuals, whether incorporated or not and in Section 2(47) of the Punjab General Clauses Act definition of word “person” is verbatim the same as defined in General Clauses Act, 1897. Section 2(e) of the Act defines “panchayat” and under the Gram Panchayat Act, 1952 it is defined in Section 3(ii). Under the old Act of 1952 panchayat was constituted under Section 6 and under the new Act of 1994 it is constituted under Section 10 and in the Act of 1994 definition of panchayat has been given in Section 2(zj). In view of Section 10 of the Punjab Panchayati Raj Act, 1994 read with Sections 5 and 6 of the 1952 Act “Gram Panchayat” is “a body corporate having perpetual succession and common seal”, as such comes within the definition of “person”. Thus, words “**any person**” are very wide and extend to any or all having interest in the land specifically when the Act itself provides for management and control over the land under the Rules framed thereunder. Words “**any person**” were also considered by

Hon'ble Supreme Court in ***Bhagwan Dass Sita Ram v. C.I.T., Lucknow(4)***, wherein the Hon'ble Supreme Court held as under: -

“14. As noted before the expression “any person” in respect of whom such direction could be given was explained by this Court in Income-tax Officer, A-Ward Sitapur v. Murlidhar Bhagwandas (supra). As mentioned in the passage quoted above from the said decision, if so construed then the Court must turn to Section 31 of 1922 Act to ascertain who is that person other than the appealing assessee might be affected by the orders passed by the appellate authority. Modification or setting aside of assessment made on a firm, joint Hindu family, association of persons, for a particular year may affect the assessment for the said year on a partner or partners of the firm, member or members of such Hindu undivided family or the individual, as the case might be. It was therefore argued that it was only those types of assessee mentioned by this Court in the passage noted above were the ‘persons’ who could be “any person” other than the appealing assessee who can be said to be liable to be assessed and in respect of whom direction might be given, otherwise such directions or provision for such directions if the provision is so read would be ultra vires Article 14 of the Constitution. We must make it clear that this Court had itself made it clear categorically in the passage quoted above that the instances given in the above passage were only illustrative passage meaning thereby that the instances were not exhaustive. This Court made it clear that the expression “any person” in its widest amplitude might take in any person connected or not with the assessee, whose income for any year had escaped assessment; but this construction could not be accepted, for the said expression was necessarily circumscribed by the scope of the subject-matter of the appeal or revision, as the case might be. So therefore the person must be one who would be liable to be assessed for the whole or any part of the income that went into assessment of the year under appeal or revision (Emphasis supplied). Therefore, this Court observed

(4) AIR 1984 SC 993

that “any person” in Sub-section (3) of Section 34 must be confined to a person intimately connected in the aforesaid sense with the assessments of the years under appeal.”

(11) In the light of above discussion, the expression ‘any person’ in Section 11 has been used in widest term, which includes the panchayat which is intimately connected in the affairs of village and management of the shamilat land under the provisions of the Act. This fact is further strengthened by the fact that in the year 1993 amendment was made in the Act and after the words ‘any person’ appearing in Section 11(1) words ‘or panchayat’ have been added and the word “panchayat” was already existing in Section 11(2) meaning thereby the rights vest in panchayat as well as in any other person. It is not confined to the persons who are other than panchayat.

(12) In view of above discussion, the reference is answered in above terms. The writ petitions be placed before the appropriate Bench.

V. Suri

Before Anita Chaudhary, J.

ASI ANANT RAM—*Petitioner*

versus

STATE OF PUNJAB—*Respondent*

CRA-S-1268-SB of 2002

May 28, 2014

Prevention of Corruption Act, 1988 - S. 7 - Trap case - Accused alleging false implication - In cross case against complainant - Accused-appellant sought illegal gratification to settle case against complainant - Raid was organised - At trial - Independent witness not examined - Complainant and shadow witness turned hostile - Only the official witness supported prosecution case - Conviction cannot be based on inferences - Offence should be proved beyond reasonable doubt either by direct or even by circumstantial evidence - Each link of the chain of events has to be established pointing towards guilt of accused by cogent evidence - Mere recovery itself cannot prove charge,