



**In the High Court of Punjab and Haryana at Chandigarh**

**CWP No. 8740 of 1999 (O&M)**

**Reserved on: 8.1.2025**

**Date of Decision: 20.1.2025**

Hukmi

.....Petitioner

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR  
HON'BLE MR. JUSTICE VIKAS SURI**

***Argued by:*** Mr. P.C.Chaudhary, Advocate  
for the petitioner.

Mr. Ankur Mittal, Addl. A.G., Haryana,  
Mr. Pardeep Prakash Chahar, Sr. DAG, Haryana and  
Mr. Saurabh Mago, DAG, Haryana.

Mr. R.N.Lohan, Advocate  
for respondent No. 5.

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**SURESHWAR THAKUR, J.**

1. Through the instant writ petition, the petitioner seeks the quashing of the order dated 5.5.1999 (Annexure P-11) passed by the Commissioner, Hisar Division, Hisar, whereby through the impugned order (supra) passed on the revision petition filed by respondent No. 6 against the order dated 28.7.1998 passed by the District Collector, Jind, the matter was remanded to the Assistant Collector concerned. The petitioner has further sought a direction upon respondents No. 1 to 5 to remove the alleged encroachment, as made by respondent No. 6, thus through his constructing a house on the public passage comprised in khasra No. 198.

**Brief facts of the case**

2. It is averred in the instant petition, that the petitioner is the



owner and in possession of the agricultural land measuring about 8-9 situated within the revenue estate of village Harnampura, Tehsil Narwana, District Jind, comprised in khewat No. 10, khatauni No. 21, khasra No. 24/4 (0-4), rectangle No. 17, khasra Nos. 2(7-15), 9(8-0), 10(6-8), 11(8-0), 12(8-0), 19(4-0), 20(8-0), rectangle No. 18, khasra No. 15 (3-4), 16(7-18), 24/2 (0-10), 25/1(1-16), rectangle No. 97 and 102 measuring (0-4) and (0-15), as detailed in the jamabandi for the year 1995-96. During the consolidation of holdings, 11 feet wide passage was provided to the petitioner for ingress and egress purposes in khasra No. 198, khewat No. 158/141-142, khatauni No. 228, measuring 01 kanal 01 marla, which vests in the Gram Panchayat concerned. The petitioner and the other inhabitants of the village, whose lands abuts or fall on the said passage, have been using the said land for ingress and egress purposes.

3. It is further averred that in the year 1993, respondent No. 6-Mukandi had encroached upon a part of the land measuring about one marla i.e. 26 feet x 5½ feet of the said public passage, as comprised in khasra No. 198, by constructing a house over it. The petitioner also requested respondent No. 5 for getting the said encroachment removed, however, it failed to do so. Subsequently, the petitioner filed an application under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short 'the Act of 1961') seeking removal of encroachment made by respondent No. 6.

4. Initially, on 2.5.1994, the application (supra) was decided by the Assistant Collector concerned, and the same was consigned to the record room. However, an appeal thereagainst became preferred by the petitioner

herein, thus before the Collector concerned, who through an order dated



24.10.1994, set aside the order (supra), and, remanded the case to the Assistant Collector concerned, rather for a fresh decision being made thereon, but after getting the demarcations done through an experienced revenue officer, as per the FCR instructions. In compliance of the order (supra), the Assistant Collector concerned, appointed one Ram Dass, Assistant Consolidation Officer (Retired), as Local Commissioner, rather for making the demarcations of the disputed lands. The Local Commissioner concerned, after conducting the demarcation of the petition lands, submitted the detailed report (Annexure P-7).

5. The learned Assistant Collector concerned, on 3.2.1997, after accepting the said demarcation report, ordered for the ejectment of respondent No. 6 from the petition land. However, an appeal became filed thereagainst by respondent No. 6, thus the learned Collector concerned, who through an order made on 21.7.1997, on the appeal (supra) rather remanded the case to the Assistant Collector concerned, with a direction to summon the Local Commissioner concerned, and, to afford an opportunity to respondent No. 6 to cross-examine the said Local Commissioner.

6. In compliance to the said order, the Local Commissioner was examined, and, after hearing both the parties, the application (supra) filed by the petitioner was allowed on 15.12.1997, by the Assistant Collector concerned, and, an order for ejecting respondent No. 6 from the petition land became passed.

7. Being aggrieved from the order (supra), the respondent No. 6 filed an appeal before the Collector concerned. However, the said appeal was dismissed by the learned Collector concerned on 28.7.1998, while

upholding the eviction order dated 15.12.1997, as passed by the Assistant



Collector concerned.

8. Being aggrieved from order (supra) passed by the learned Collector concerned, respondent No. 6 filed a revision petition before the learned Commissioner concerned. However, vide the impugned order dated 5.5.1999, the learned Commissioner concerned, remanded the case to the Assistant Collector Ist Grade, Narwana, with a direction to carry out nishandehi under the direct supervision of the Tehsildar or of the Naib Tehsildar, but without considering the detailed demarcation report of the Local Commissioner concerned.

**Reply on behalf of respondent No. 6**

9. In reply filed by respondent No. 6, it is averred that there is nothing on record to show that the passage covering an area of 1 kanal and 1 marla was carved out for the use of the petitioner, and, that respondent No. 6 has not encroached any area of the passage, rather has raised construction on the adjoining area. It is further averred that the dispute in the present litigation relates to an area of 1/2 marla of khasra No. 198, and, any controversy regarding any area of khasra No. 152 is irrelevant. Furthermore, it is averred in the reply that there is a grave error in the demarcation report, as there was no fixed pucca points nearby.

**Inferences of this Court**

10. Since pursuance to the order rendered on 21.7.1997, upon, the apposite statutory appeal, whereby the learned Collector concerned, remanded the case to the learned Assistant Collector concerned, but with a direction to him to summon the Local Commissioner concerned, and, to afford an opportunity to respondent No. 6, thus to examine the said Local Commissioner, thus when the Local Commissioner becoming both



examined-in-chief, and, also becoming cross-examined. Moreover, when a reading of the order rendered by the learned Assistant Collector concerned, displays that the latter after referring to the testification(s), as made by the Local Commissioner concerned, both in his examination-in-chief and in his cross-examination, rather ultimately concluded, that the report submitted before him by the Local Commissioner concerned, thus was required to be assigned credence. Resultantly, when the said assigning of credence by the learned Assistant Collector concerned, to the report of the Local Commissioner, thus also became affirmed by the learned Collector concerned, through his making a decision on the relevant statutory appeal on 28.7.1998,

11. Though therebys the verdict of eviction was required to be enforced but yet against the supra made order on 28.7.1998, the aggrieved therefrom preferred a revision petition before the learned revisional authority concerned, whereons the impugned order became passed.

12. The prime issue, which requires determination in the instant writ petition, is whether the exercisings of revisional jurisdiction by the learned Commissioner concerned, thus on the revision petition (supra), and, whereons the impugned order became rendered, was a validly assumed jurisdiction on the said revision petition.

13. If this Court concludes, that the entertainment of the revision petition (supra), at the instance of the Commissioner concerned, thus was outside the domain of Section 13-B of the Haryana Village Common Lands (Regulation) Act, 1961 (for short 'the Act of 1961'), thereupon, this Court would proceed to set aside the impugned order (Annexure P-11). However,



extract the provisions, as carried in Section 7 of the Act of 1961, provisions whereof become extracted hereinafter.

***“7. Power to put Panchayat in possession of certain lands.--***

*[(1) An Assistant Collector of the first grade having jurisdiction in the village may, either suo moto or on an application made to him by a Panchayat or an inhabitant of the village or the Block Development and Panchayat Officer or Social Education and Panchayat Officer, or any other Officer authorised by the Block Development and Panchayat Officer, after making such summary enquiry as he may deem fit and in accordance with such procedure as may be prescribed, eject any person who is in wrongful or unauthorised possession of the land or other immovable property in the shamilat deh of that village which vests or is deemed to have been vested in the panchayat under this Act and put the panchayat in possession thereof and for so doing the Assistant Collector of the first grade may exercise the powers of a revenue court in relation to the execution of a decree for possession of land under the Punjab Tenancy Act, 1887:*

*Provided that if in any such proceedings the question of title is raised and proved prima facie on the basis of documents that the question of title is really involved, the Assistant Collector of the first grade shall record a finding to that effect and first decide the question of title in the manner laid down hereinafter.*

*(2) The Assistant Collector of the first grade shall by an order, in writing, require any person to pay a penalty, in respect of the land or other immovable property which was or has been in his wrongful or unauthorised possession, at a rate not less than five thousand rupees and not more than ten thousand rupees per hectare per annum, having regard to the benefit which could be derived from the land or other immovable property. If the penalty is not paid within the period of thirty days from the date of the order, the same shall be recoverable as arrears of land revenue.*

*(3) The procedure for deciding the question of title under proviso to sub-section (1) shall be the same as laid down in the Code of Civil Procedure, 1908.*

*(4) If any person refuses or fails to comply with the order of eviction passed under sub-section (1), within ten days of the date of such order, the Assistant Collector of the first grade may use such force, including police force, as may be necessary for putting the panchayat in possession.*

*(5) Any person who is found in wrongful or unauthorised possession of the land or other immovable property in shamilat deh and is ordered to be ejected under sub-section (1), shall be punishable with imprisonment for a term which may extend to two years.”*

14.

At the outset, the jurisdictional competence of revisional



authority to entertain a revision petition when becomes directed against the orders of eviction passed by the Assistant Collector concerned, or by the Appellate Authority concerned, especially when the said order of eviction becomes *stricto sensu* made within the domain of sub-Section (1) of Section 7 of the Act of 1961, and, but without within the domain of the proviso thereunders, rather no question of title becoming raised by the respondent in the said eviction petition, thus, also extending to the situation (*supra*), rather has resulted in diverse verdicts becoming made thereons.

15. In the judgment passed by the Division Bench of this Court in case titled as ***Leela Ram versus Gram Panchayat, Jailaf***, reported in ***1997(4) RCR (Civil) 354***, this Court after making an appraisal of the mandate, carried in Section 13-B of the Act of 1961, concluded in paragraph 3 thereof, para whereof becomes extracted hereinafter, that when no question of title, thus within the domain of the proviso to Section 7 of the Act of 1961, became raised by the respondent in the eviction petition, thereupon, the exercisings of revisional jurisdiction on the relevant revision petition, is clearly barred.

*“3. After hearing the learned counsel for the petitioners we are of the view that the argument of the learned counsel for the petitioners has got force. Section 13-B(2) clearly envisages that Commissioner can entertain the revision petition suo motu or on an application filed by the aggrieved party if the case has been decided under the amended proviso to Sub-section (1) of Section 7 of the Act. The proviso of Sub-section (1) clearly lays down that if question of title is involved in a case, it should be decided under proviso. In other words if no question of title is involved, the proviso would not apply and in such a situation the jurisdiction of the Commissioner to act Under Section 13-B(2) shall stand excluded whether he was to act suo motu or on the application of an aggrieved party. As a necessary corollary, it can safely be held that in eviction proceedings the order of Collector in appeal would be final whereas the Commissioner would have the power to entertain the revision petition, if question of title is raised and proved prima facie on the*



*basis of documents and this is the mandate of the proviso. This is the only interpretation which can be placed on combined reading of [Section 7](#) and [Section 13-B](#) of the Act. No other interpretation in our view is possible. If the legislature had intended to vest powers in the Commissioner to entertain the revision petition even in cases of eviction of unauthorised occupants, there was no obstacle in its way to either make a specific provision in this regard or manifest its intention by adding another proviso.*

16. The said view became reiterated in a judgment passed by this Court in **CWP No. 24188 of 2013**, titled as ***Gram Panchayat Village Badangi versus State of Haryana and others.***

17. However a view contrary to the view adopted in the verdicts (supra) became taken by the Division Bench of this Court in **CWP No. 2891 of 2014**, titled as ***Rulia Khan versus State of Haryana and others.***

Moreover, in the judgment passed by a Division Bench of this Court in case titled as ***Orion Infrastructure Limited versus Commissioner, Gurgaon Division, Gurgaon and others***, reported in **2012(3) PLR 128**, this Court in para 37 thereof, para whereof becomes extracted hereinafter, has taken the view, that the investment of suo moto revisional jurisdiction under Section 13-B of the Act of 1961, thus in the revisional Court concerned, especially given the occurrence of the statutory coinages therein "call for the record of any proceedings pending before, or orders passed by, any authority subordinate to him for the purpose of satisfying himself as to the legality or propriety of the proceedings or order", thus thereby, rather the Revisional Court concerned, becomes validly permitted to even without the respondent in the apposite eviction petition recouring the mandate of the proviso carried in Section 7 of the Act of 1961, rather exercise revisional jurisdiction against such orders passed in any statutory appeal by the Appellate Authority concerned.



*petitioner that under sub-section (2) of Section 13-B of the Act of 1961, the Commissioner can only entertain the revision either suo motu or on an application made to him by a person aggrieved against the order passed under the proviso to sub-section (1) of Section 7, and not against an order passed by the Assistant Collector Ist Grade under Section 13-A of the Act of 1961. Therefore, the order of the Commissioner setting aside the order of the Assistant Collector Ist Grade, in exercise of suo motu power under Section 13-B(2) of the Act of 1961 is wholly without jurisdiction. This contention of learned counsel for the petitioner cannot be accepted. If this contention is accepted, then the words "call for the record of any proceedings pending before, or orders passed by, any authority subordinate to him for the purpose of satisfying himself as to the legality or propriety of the proceedings or order" used in Section 13-B (2) will become redundant. It is fundamental principle of interpretation that every word of the statute is to be given meaning. The Court cannot give interpretation to a provision by rendering certain portion or words of the provision as meaningless or redundant. In [Aswini Kumar Ghose Vs. Arabinda Bose](#), AIR 1952 SC 369, it has been held that "It is not a sound principle of construction to brush aside words in a statute as being inapposite surplusage, if they can have appropriate application in circumstances conceivably within the contemplation of the statute". Similar observation was made in [Rao Shiv Bahadur Singh & Anr. Vs. State of Vindhya Pradesh](#), AIR 1953 SC 394 that "It is incumbent on the court to avoid a construction, if reasonably permissible on the language, which would render a part of the statute devoid of any meaning or application". In [J.K. Cotton Spinning & Weaving Mills Co. Ltd. Vs. State of U.P.](#), AIR 1961 SC 1170, it was observed that "the courts always presume that the Legislature inserted every part thereof for a purpose and the legislative intention is that every part of the statute should have effect". The Legislature is deemed not to waste its words or to say anything in vain and a construction which attributes redundancy to the Legislature will not be accepted except for compelling reasons. In the present case, we do not find any reason to give construction to the provision of Section 13-B(2) of the Act of 1961, by rendering some portion or words of the provision as meaningless or redundant. Sub-section (2) of Section 13-B of the Act of 1961 deals with two types of revisions, firstly on the application made by a person aggrieved against an order passed under the proviso to sub-section (1) of Section 7, and secondly, the Commissioner has been given suo motu power to revise or modify any order passed by any authority subordinate to him. The Commissioner has been given wide suo motu power to pass any order in relation to any proceedings or order passed by any authority subordinate to him, as he may deem fit."*



18. The reason which has been portrayed in the above extracted paragraph, rather for the Division Bench taking the above view, arose from its concluding, that in the legislature employing the said coinages in the above extracted provision, is thereby thus deemed not to waste its words or to say anything in vain and a construction which attributes redundancy to the Legislature, except for compelling reasons rather will not be accepted. Therefore, to avoid the assigning of redundancy to the employment of the statutory coinage (*supra*), in the provisions cast under Section 7 of the Act of 1961, thus the Division Bench of this Court concluded, that the expanse of the said statutory coinages, spreads even to a situation, whereby the respondent in the eviction petition, who despite not rearing, thus within the domain of the proviso, as occurs therein, hence any question of title, whereby he/she resists the assertion of title, as made to the disputed lands by the petitioner/Gram Panchayat in the eviction petition, rather becoming empowered to avail the revisional remedies (*supra*). The judgment (*supra*) also became concurred by a verdict rendered by the Division Bench of this Court in case titled as ***Sudesh Kumar and others versus State of Haryana and others***, reported in ***2019(4) PLR 204***.

19. Though, the principles of judicial propriety ordain, that the verdicts rendered by a Bench strength of this Court, thus co-equal to the Bench strength of this Court, are required to be adhered to, unless distinguished or unless per incuriam the statutory provisions. However, when divergent views in respect of the issue at hand, are taken by the Division Benches of this Court, which are thus naturally co-equal in strength to the quorum of this Court, thereby though normally a reference to a Bench strength larger in size to the Bench strengths, which delivered contra views



over the subject at hand, rather is required to be made.

20. However, for the reasons to be assigned hereinafter, this Court refrains from despite contra views becoming taken by the Division Benches of this Court, to make a reference vis-a-vis the subject at hand, to a Bench strength larger in size to the Bench strength(s) of the Division Benches of this Court, each of whom, as stated (supra), but have taken divergent views over the subject at hand.

21. This Court for the reasons to be assigned hereinafter, becomes empowered to adopt the view taken by one of the Division Bench of this Court, and, also becomes empowered to refrain from concurring with the contra view taken by another Division Bench of this Court, thus on employment of the rules relating to the interpretation of the “coinages”, which occur in Section 13-B of the Act of 1961, provisions whereof become extracted hereinafter. Resultantly, therebys this Court concludes, that the view adopted in **Rulia Khan’s** case (supra), and, in **Orion Infrastructure Limited’s** case (supra) is but per incuriam the statutory coinage, as occur in Section 13-B of the Act of 1961. Moreover, therebys this Court would become inclined to uphold the view adopted by a Division Bench of this Court in **Gram Panchayat village Badangi’s** case (supra), and, also therebys becomes coaxed to disconcur with the contra thereto view taken by the Division Benches of this Court in **Rulia Khan’s** case (supra), and, in **Orion Infrastructure Limited’s** case (supra). Conspicuously, for the reasons that the view taken in **Rulia Khan’s** case (supra), and, in **Orion Infrastructure Limited’s** case (supra), thus on a plain and literal construction of statutory coinages (supra), which occur in Section 13-B of the Act of 1961, rather is



per incuriam the underlined statutory coinages (supra).

***“13-B. Appeal and revision-**(1) Any person aggrieved by an order of the Assistant Collector of the first grade may, within a period of thirty days from the date of order passed under sub-section (1) or sub-section (2) of section 7 prefer an appeal to the Collector in such form and manner, as may be prescribed . and the Collector may after hearing the appeal, confirm, vary or reverse the order as he deems fit:*

*Provided that no such appeal shall lie unless the amount of penalty, if any, imposed under sub-section (2) of section 7, is deposited with the Collector.]*

*(2) The Commissioner may, suo motu [or on an application made to him by any person aggrieved by an order passed under the proviso to sub-section (1) of section 7 at any time] call for the record of any proceedings pending before, or order passed by, any authority subordinate to him for the purpose of satisfying himself as to the legality or propriety of the proceedings or order and pass such order in relation thereto as he may deem fit:-*

*Provided that no order adversely affecting any person shall be passed unless he has been afforded an opportunity of being heard.”*

22. First, and, foremost a circumspect, and, incisive reading of the provisions of Section 13-B of the Act of 1961, especially of the mandate borne in sub-Section (1) thereof, but clearly, and, forthrightly makes speakings, that the right of appealability to an aggrieved from an order passed by the Assistant Collector Ist Grade, is thus, before the Appellate Authority concerned. Nonetheless, beneath the said sub-Section (1), a proviso occurs whereby, the said appeal has been declared to be well constituted only subject to the amount of penalty, as becomes imposed under sub-Section (2) of Section 7 of the Act of 1961, rather being deposited with the Collector.



23. Be that as it may, the legal conundrum at hand relates to the expanse of revisional jurisdiction conferred, upon the Commissioner concerned, through the mandate which occurs in sub-Section (2) of Section 13-B of the Act of 1961. Tritely on employing the rule of plain readings or on employing the rule of making literal construction of the said sub-Section (2) of Section 13-B of the Act of 1961, the inference which is but naturally marshable therefrom, is that, though the Commissioner becomes empowered to suo motu exercise the revisional jurisdiction, but the said exercising of revisional jurisdiction, is also so exerciseable, rather though an application becoming made before him by any person, who becomes aggrieved from an order passed under the proviso to sub-section (1) of section 7 of the Act of 1961. The initial segment, as becomes carried in sub-Section (2) of Section 13-B of the Act, is but in the first component of sub-Section (2), and, the subsequent thereto statutory coinage(s), inasmuch as, “call for the record of any proceedings pending before, or order passed by, any authority subordinate to him for the purpose of satisfying himself as to the legality or propriety of the proceedings or order and pass such order in relation thereto as he may deem fit” but naturally are the second component or the second segment of the said statutory provision. Therefore, on employing the interpretative tool of making literal interpretation, vis-a-vis, the opening or of the first segment of sub-Section (1) of Section 13-B of the Act of 1961, unless the second component (supra), is earmarkedly or pointedly carved, as an exception thereto, thereby the second component is to be read in alignment with the first component. In other words, the rules of *ejusdem generis*, thus also require, that the first and the second component of sub-Section (2) of Section 13-B of the Act of 1961, require theirs being



harmonized or being aligned with each other, for thereby both becoming made workable, and/or thereby the able functionality of both the components becomes fully enabled.

24. On employing the above interpretative tools, since the revisional jurisdiction conferred through sub-Section (2) of Section 13-B of the Act of 1961, upon the Commissioner, rather in the first component of the said sub-Section, has to be exercised by the Commissioner, thus vis-a-vis an order passed under the proviso to sub-Section (1) of Section 7 of the Act of 1961. Therefore, when the second component of sub-Section (2) of Section 13-B of the Act of 1961, thus is not explicitly expressed to function as a rider or as an exception thereto, nor functions as a proviso to the first component. Resultantly, the statutory expressions carried therein, inasmuch as “call for the record of any proceedings pending before, or order passed by, any authority subordinate to him for the purpose of satisfying himself as to the legality or propriety of the proceedings or order and pass such order in relation thereto as he may deem fit” are to be aligned or are to be read with in conjunction with the first segment, as thereby both would be conjointly workable, and, whereupon both would not become rendered redundant. In sequel, when there is a specific legislative intent, thus in the first segment of sub-Section (2) of Section 13-B of the Act of 1961, whereby an explicitly expressed revisional jurisdiction becomes conferred, upon the Commissioner concerned, only vis-a-vis an order passed under the proviso to sub-Section (1) of Section 7 of the Act of 1961. Resultantly, the subsequent thereto statutory coinages “call for the record of any proceedings pending before, or order passed by, any authority subordinate to him for the purpose of satisfying himself as to the legality or propriety of



the proceedings or order and pass such order in relation thereto as he may deem fit” but are to be read in alignment with the said first segment (supra), besides the first, and, the second components, are not to be segregated, especially when neither the second segment, is candidly spoken to be an exception to the first segment, nor the second component is expressly stated to be serving as a proviso to the first segment.

25. Therefore, the statutory expressions (supra), are such explicit statutory expressions, which relate to the Commissioner concerned, while exercising revisional jurisdiction, becomes enjoined to do so only vis-a-vis an order passed under the proviso to sub-Section (1) of Section 7 of the Act of 1961, besides also becomes enjoined to call for the records of proceedings but relating to the passing of the said order. Moreover, the revisional empowerment, to call for the records of any proceedings pending before, or the order passed by any authority subordinate to the revisional authority, are also statutory expressions, which relate to the proceedings appertaining to the drawings of an ultimate order by the Assistant Collector concerned, upon, the respondent in the eviction petition, who but employs the mandate of the proviso to sub-section (1) of section 7 of the Act of 1961. In addition, the said revisional empowerment extends also to the subjudice appellate proceedings, as become drawn therefrom, and, as such are pending before the Appellate Authority. Moreover, the ultimate orders passed on the statutory appeal, by the authority subordinate to the revisional authority, and, which arise from the orders passed by the Assistant Collector concerned, under the proviso to sub-section (1) of section 7 of the Act of 1961, rather are but the orders or the proceedings, pending before, or the orders passed by any authority subordinate to the revisional authority in



terms of sub-Section (2) of Section 13-B of the Act.

26. In consequence, the second component of sub-Section (2) of Section 13-B of the Act of 1961, thus only speaks about the power invested in the revisional authority concerned, to call for the records of any proceedings, which are but pending before, or the orders passed by an authority subordinate to the revisional Court, which is thus the Appellate Court concerned. The said pending proceedings or the orders passed by the Appellate Court concerned, in respect whereof, the empowerment becomes vested in the revisional authority, thus to summon the records thereof, rather is an empowerment vested in the revisional authority concerned, which does imperatively relate to the proceedings as become embarked upon, in an appeal reared before the appellate authority, and, which generates from the orders passed under the proviso to sub-Section (1) of Section 7 of the Act of 1961, thus by the Assistant Collector concerned.

27. It appears, that the above manner of making literal conjoint interpretation of the relevant statutory provision (*supra*), besides on employing the rule of *ejusdem generis*, thus to the considered mind of this Court, but imparts a wholesome, and, combined signification qua both the components of sub-Section (2) of Section 13-B of the Act of 1961, whereby the entirety of the provisions, carried therein becomes fully functional. Reiteratedly, the said manner of interpretation is also made, on employing the rule relating to literal interpretations being made to both the components, as occur in sub-Section (2) of Section 13-B of the Act of 1961, whereby the purposeful declared therein legislative intent, rather is not required to be deviated from. Moreover, thereby both the segments become harmonized,



second component. The effect of the above, is that, the view adopted by the Division Bench of this Court in *Leela Ram's* case (supra), is made on a correct interpretation of the mandate, as occurs in sub-Section (1) of Section 7 of the Act of 1961, besides to the consequent thereto mandate, as occurs in Section 13-B of the Act of 1961 whereas, the view taken in *Rulia Khan's* case (supra) is contrary to the legislative intent.

28. In nutshell, this Court concludes, that only when before the Assistant Collector concerned, but within the domain of the proviso of Section 7(2) of the Act of 1961, the respondent in the eviction petition, rather has raised a disputed question of title, whereby, he negates the assertion of the Gram Panchayat concerned, to seek his eviction from the disputed lands, and, leading to an order of eviction being passed, qua thereupon alone against such a rendered order of eviction, rather a revision petition is maintainable to the aggrieved therefrom, before the revisional Court concerned. However, no revision petition is maintainable before the revisional authority concerned, thus in the event if no question of title, rather within the domain of the proviso to Section 7 of the Act of 1961, becoming raised by the respondent, in the eviction petition, as in respect of the above, a specific remedy of appeal in sub-Section (1) of Section 13-B of the Act, rather is created.

29. If so, when in the proviso underneath sub-Section (1) of Section 13-B of the Act of 1961, there is an encumbrance of deposit of penalty amount, upon the respondent, in the eviction petition, thus as a pre-condition for maintaining the statutory appeal, whereas, the said proviso does not occur underneath sub-Section (2) of Section 13-B of the Act of 1961,

thereupon too, there are but separate statutory empowerments which become



vested in the aggrieved from an order of eviction passed in a simpliciter petition cast under Section 7 of the Act of 1961, and, qua the respondent therein taking to rely upon the apposite proviso to sub-section (1) of section 7 of the Act of 1961. Conspicuously, only in the latter situation, the remedy if any to the aggrieved from the order of eviction passed by the Appellate Authority concerned, is through a revision being preferred in terms of sub-Section (2) of Section 13-B of the Act of 1961.

30. Now this Court is required to delineate the manner of objective satisfaction being drawn by the Assistant Collector concerned, on the respondent, in the eviction petition, raising a dispute with respect to the entitlement of the Gram Panchayat, to seek the eviction of the respondent concerned, from the disputed lands. On a plain reading of the proviso, as occurs underneath sub-Section (1) of Section 13-B of the Act of 1961, it is manifestly clear, that when in a response filed to the eviction petition, the respondent raises a claim qua title inhering in him vis-a-vis the disputed lands, but with a further statutory condition, that yet he is required to be prima facie proving the said assertion, thus on the basis of the apposite prima facie credible documents. Resultantly therefrom alone the Assistant Collector concerned, is required to draw an objective speaking order, that whether a substantial question of title is really involved, and, resultantly therebys, he is required to decide the said question of title, in the manner as declared in sub-Section (3) of Section 7 of the Act of 1961, provisions whereof become extracted hereinabove.

31. Therefore, the apposite procedural mandate appertaining to the employments of the regulatory procedural mechanisms, as relates to trial of the civil suits by the Civil Court of competent jurisdiction, are also required



to be thus employed by the Assistant Collector concerned, when he proceeds to, after making a finding that a question of title is really involved, thus try the said question of title. Resultantly, but naturally when in the mandate enclosed in sub-Section (2) of Section 13-B of the Act of 1961, speakings (supra) are made in the second segment thereof, segment whereof, is not expressed to be a statutory exception to the prior thereto first segment. Resultantly, the statutory coinages (supra), as become borne in the second segment relate to the testings being made by the revisional authority vis-a-vis the well adoption of the said regulatory procedural mechanisms, thus by the Assistant Collector concerned, while his proceeding to decide the question of title, as becomes raised by the respondent in the eviction petition.

32. In sequel, the underlined expressions (supra) which occur in the second segment of sub-Section (2) of Section 13-B of the Act of 1961, when reiterated, do imminently relate to the adoptions of the apposite statutory regulatory mechanism, even by the Assistant Collector concerned, while his proceeding to decide the question of title, as becomes raised in terms of proviso to Section 7 of the Act of 1961. In sequel, when during the course of the apposite undertaken proceedings in respect theretos, thus there is a purported clear departure from the employment of the above said procedural mechanisms, which are required to be thus recoured by the Assistant Collector concerned, in his proceeding to engage himself in deciding the question of title, as becomes raised in terms of proviso to Section 7 of the Act of 1961, that thereby the proceedings relating to such made departures, are the ones which become expressed in the underlined statutory coinages, thus to invest in the revisional Court concerned, the jurisdiction to test the propriety or otherwise of the making of such purported departures.



33. Conspicuously, there is a difference between the exercising of appeal, and, of revisional jurisdiction. The statutes investing appellate, and, revisional jurisdiction, do so through separate statutory provisions, which in the instant case, occur respectively in sub-Section (1) and sub-Section (2) of Section 13-B of the Act of 1961, as also in the CPC, there are certain appealable orders, and, there are also reviseable orders. Since only in respect of non-appealable orders, the High Court exercises revisional jurisdiction conferred under Section 115 of the CPC or under Article 227 of the Constitution of India. Moreover, when the exercisings of the said vested jurisdiction, results in the calling for the record of the proceedings, as become embarked upon in respect of the relevant lis, rather by the Civil Courts or by the quasi judicial authorities. Resultantly, on a similar analogy, the statutory coinages “call for the record of any proceedings pending before, or order passed by, any authority subordinate to him for the purpose of satisfying himself as to the legality or propriety of the proceedings or order and pass such order in relation thereto as he may deem fit” do also relate to the revisional authority becoming conferred with jurisdiction to call for records of the proceedings as generate from the lis, wherein, in terms of the proviso to Section 7 of the Act of 1961, a disputed question of title is raised by the respondent in the eviction petition. However, if the said analogy is departed, thereupon the fine distinction created in Section 13-B of the Act of 1961 inter se the appealable orders and the revisional orders, but necessarily would be lost, besides the fine distinction created in the CPC in respect of appealable orders and reviseable orders, and, the consequent thereto empowerment respectively in the Appellate Courts and the Revisional



Courts, but would also become completely ill-effaced. In sequel, the above fine distinction is required to be maintained, but has not been maintained in the verdicts recorded in ***Rulia Khan***'s case (supra), and, in ***Orion Infrastructure Limited***'s case (supra).

34. However, when no question of title within the domain of the said proviso became raised, nor also when any decision was required to be made thereons by the learned Assistant Collector concerned. Therefore, the petition, as cast under Section 7 of the Act of 1961, was a simpliciter petition for eviction. If so, no revisional jurisdiction became conferred upon the Commissioner concerned, in his maintaining the said petition, and, also his through the impugned order deciding the same. As such, the exercise of revisional jurisdiction by the learned Commissioner concerned, is *non est*, whereby the impugned order also consequently becomes *non est*.

35. In consequence, if no proceedings, as such, on the said raised question of title became drawn, thereby no breach became caused to the proviso to Section 7 of the Act of 1961, especially when, as such the said assertion of title over the disputed lands, rather was most surmisingly raised. Therefore, in the said situation, to the considered mind of this Court, there is no exerciseable revisional jurisdiction invested in the Commissioner concerned, to thus in terms of Section 13-B of the Act of 1961, rather exercise revisional jurisdiction thereovers. The said revisional jurisdiction rather is exerciseable, only when despite the documents to support the assertion of title, becoming produced along with the apposite response made to the eviction petition, thus by the respondent, yet the said documents becoming untenably discarded, both by the Assistant Collector concerned, and, by the Appellate Authority concerned. The above situation also does



not exist in the present case, nor any revisional jurisdiction was exerciseable on the revision petition.

36. Be that as it may, assuming that the revision petition (supra) was a competently filed revision petition, therebys too, the revisional authority was required to after making a detailed analysis of the testification(s) rendered by the Local Commissioner concerned, thus to locate therein some grave pervasive infirmities, relating to his making grave palpable breaches vis-a-vis the canons relating to the conducting of demarcation of the disputed lands. If such grave pervasive infirmities became located in the report of the Local Commissioner, and, which also became proven by the Local Commissioner, through his stepping into the witness box, during course whereof, rather his becoming successfully cross-examined. However, even the said situation is not existing. As such, when the report of the Local Commissioner became proven, therebys unless yet some grave noticeable infirmities were located therein, by the revisional authority concerned, thereupon may be the impugned order was vindicable. However, when the supra infirmities rather remain not spoken in the impugned order, therebys the impugned order, thus is an ill-informed order, besides is not founded on any valid reason, rather for disconcurring with either the verdict of eviction recorded by the learned Assistant Collector concerned, and, subsequently also by the Collector concerned.

**Final order**

37. For all the above stated reasons, this Court finds merit in the instant petition, and, is constrained to allow it. Consequently, the instant petition is allowed. The impugned order dated 5.5.1999 (Annexure P-11) is quashed and set aside. The order dated 15.12.1997 passed by the learned



Assistant Collector concerned, and, also the order dated 28.7.1998 passed by the learned Collector concerned, however are maintained and affirmed.

38. The miscellaneous application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)  
JUDGE

(VIKAS SURI)  
JUDGE

January 20, 2025  
Gurpreet

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