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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.23303 of 2012 (O&M)
Date of decision: May 09, 2016**

Dalip Kaur

.....Petitioner

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE A.B. CHAUDHARI**

Present: Mr. Vikas Singh, Advocate
for the petitioner.

Mr. Rajesh Bhardwaj, Addl. AG Punjab.

Mr. Goldy Thakur, Advocate for
Mr. H.S. Brar, Advocate
for respondent No.4.

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

SURYA KANT, J. (Oral)

The petitioner assails the orders dated 13.04.2010 (Annexure P-2) and 16.11.2011 (Annexure P-3) passed by the Collector and the Appellate Authority in purported exercise of their powers under Section 20-A of the Punjab Village Common Lands (Regulation) Rules, 1964 (for short 'Rules') whereby the Gram Panchayat has been held entitled to recover the damages caused to it by retention of unauthorised and illegal possession of the Gram Panchayat land, and consequently, a sum of ₹8,85,000/- was ordered to

be recovered from the petitioner. Her appeal against that recovery order has also been dismissed.

The prime contention raised on behalf of the petitioner is that no independent petition is maintainable under Rule 20-A of the Rules and no damages can be awarded to the Gram Panchayat unless an express power to this effect is embedded in the Statute or the Rules whereunder such damages can be chargeable. It is contended that Sections 7 and/or 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short 'Act') do not confer any such power on the Collector or the Appellate Authority.

Since it was brought on record that the Gram Panchayat land remained in possession of the family of petitioner and/or her close relatives who continued to enjoy possession by dragging the gram Panchayat in multiple proceedings, this Court deemed it appropriate to direct the petitioner to deposit atleast a part of the damages imposed on her and consequently, the following order was passed on 04.04.2016:-

“Heard learned counsel for the parties.

At the time of passing of interim stay order dated 17.12.2012 the fact that the petitioner never took the stand before the Divisional Deputy Director-cum-Collector that she was no longer in possession of the land in dispute, was not brought to the notice of this Court. On the other hand,

there is a categorical finding that she continued to retain the possession which was got vacated through the interim directions issued by this Court in the year 2014-15. We thus modify the order dated 17.12.2012 in part, directing the petitioner to deposit at least a sum of ₹4 lac with the Gram Panchayat without prejudice to her legal rights in the writ petition.

List on 09.05.2016 for compliance."

In deference thereto, learned counsel for the petitioner has handed over a demand draft of ₹4,00,000/- bearing No.135152 dated 06.05.2016 in favour of the Gram Panchayat, Nanansu to its learned counsel.

Having heard learned counsel for the parties on merits, it appears that the following two issues require determination:-

- i) Whether in the absence of an express provision under the 1961 Act or the Rules framed therein, the Collector is competent to impose damages on an unauthorised occupant, with a view to compensate the Gram Panchayat for the loss caused to it due to illegal retention of its property by the unauthorised occupant?
- ii) Whether the power to levy damages is implicit and inherent in a quasi-judicial authority whom the Statute vests power to order the eviction of unauthorised occupant or to adjudicate title dispute between the Gram Panchayat and the proprietors, especially with a view to avoid multiplicity of proceedings and to do complete justice between the parties?

Since both the issues have not been dealt with and/or addressed by the Collector or the Appellate Authority vide orders under challenge, we allow the writ petition in part, set aside the impugned orders and remit the case to the Collector for re-determination of these issues. It is directed that if issue No.2 formulated hereinabove is answered in favour of the Gram Panchayat and against the petitioner then, the Collector shall further sympathetically reconsider the amount of damages levied on the petitioner, keeping in view the fact that she has already deposited a sum of ₹4,00,000/-

The Collector is directed to decide the proceedings within four months. The parties are directed to appear before the Collector on 27.06.2016.

**[SURYA KANT]
JUDGE**

**[A.B. CHAUDHARI]
JUDGE**

May 09, 2016
mahavir