In the High Court of Punjab and Haryana at Chandigarh

245/2 **CR No. 7347 of 2018**
Date of decision: 03.05.2019

Gurnam Singh

.....petitioner

Versus

Gram Panchayat of Village Baggarian and others

.....respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. B.S.Jaswal, Advocate,
for the petitioner.

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RAJ MOHAN SINGH, J.(oral)

Petitioner has challenged the order dated 2.5.2018 passed by the Collector-cum-Divisional Deputy Director, Rural Development and Panchayat, Jalandhar, Camp at Amritsar, vide which interim order granted earlier was vacated.

Petitioner along with proforma respondents No.3 to 5 filed a suit for declaration under Section 11 of the Punjab Village Common Lands Act for a decree of declaration to the effect that the plaintiffs are owners in possession of suit land situated in revenue estate of Baggarian and the order dated 8.7.2015 passed by the SDM-cum-Assistant Collector, Ist Grade, Amritsar-2 was illegal, null and void. The alleged auction

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conducted by the Gram Panchayat in favour of defendant No.2 was also claimed to be a paper transaction. Plaintiffs also sought relief of permanent injunction restraining defendants No.1 and 2 from interfering in the possession of the plaintiffs.

Notice of motion was issued on 29.10.2018 by passing the following order:-

> "Learned counsel for the petitioner contends that vide order dated 25.01.2017, interim order of dis-possession of the plaintiff was granted by the Collector, Panchayat Land Records. Thereafter, interim order was extended from time to time. The interim order was vacated vide order dated 02.05.2018 by way of non-speaking order.
>
> Notice of motion for 27.02.2019.
>
> Till the next date of hearing, status quo regarding possession over the suit property be maintained."

As per report of the process server, respondents No.1 and 2 are avoiding service and affixations have been made accordingly. Respondent No.1 is the gram panchayat and the same has been impleaded through sarpanch Sh.Ranjit Singh s/o Balwant Singh. Respondent No.2 is also resident of village Baggarian. Since both are evading service and therefore,

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affixations have been made. Interim order for dispossession was granted in favour of the plaintiffs on 25.1.2017 by the Collector, Panchayat Land Records. After grant of the aforesaid stay, the same was extended from time to time. The interim stay was vacated on 2.5.2018 by passing the following order:-

> "File presented today, Parties along with their counsel, present. The documentary evidence on behalf of the applicant closed. The respondent asked time to produce their evidence and they also moved an application to re-appreciate the order dated 25.1.2017 and 29.11.2017 by which the stay was granted and to vacate the stay order. After hearing the arguments on the application of the respondent, the stay order dated 25.10.2017 and order dated 29.11.2017 is hereby vacated. Now the case is adjourned to 16.5.2018 for the production of evidence by the respondents. The file be put up on 16.5.2018."

Perusal of the impugned order would show that the same is totally non speaking. The Collector, Panchayat Land Records has not adverted to the incriminating facts on record, warranting vacation of stay earlier granted by the same Court/ officer. While exercising powers of superintendence under Articles 227 of the Constitution of India, I deem it appropriate

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to set aside the impugned order dated 2.5.2018 being non speaking and direct the Collector, Panchayat Land Records to re-visit the issue and pass fresh and appropriate order in accordance with law. Till such time, the order of status quo granted by this Court on 29.10.2018 shall remain in operation.

Petition stands disposed of accordingly.

(RAJ MOHAN SINGH)
JUDGE

May 03, 2019
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Whether reasoned/Speaking **Yes/No**

Whether reportable ***Yes/No***

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