

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

CWP-3004-2019

Reserved on: 14.10.2022

Pronounced on: 18.10.2022

Shri Guru Hargobind Sahib Sports Club (Regd.)

.....Petitioner

Versus

State of Punjab and Others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE N.S. SHEKHAWAT**

Argued by: Mr. Vaibhav Sehgal, Advocate
for the petitioner.

Mr. Maninder Singh, DAG, Punjab.

Mr. Naveen Sharma, Advocate for
Mr. Rakesh Gupta, Advocate
for respondent No. 8.

SURESHWAR THAKUR, J.

1. The petition case No. 904/A was instituted on 26.09.2014 before the learned Collector-cum-District Development and Panchayat Officer, Ludhiana. In the above petition, the petitioner Gram Panchayat, Kot Panaich, claimed relief for eviction of the respondents therein, from the petition land. The petition land was contended to be *shamlat* land, and, any occupation thereons of the respondents was claimed to be unauthorized. The petition (supra) was decided on 19.11.2015. Through the above made order the respondents therein were directed to be evicted from the petition land.

2. The above made order appears to be binding and conclusive, as no verdict rather setting aside or annulling the order

(supra) has been placed on record.

FACTUAL BACKGROUND

3. The binding and conclusive verdict as made on 19.11.2015, resulted in the Executing Officer concerned, issuing warrants of possession, for ensuring the eviction of the respondents concerned, from the contentious land but the said efforts did not yield any fruit, as the Executing Officer faced the ire of the respondents concerned. Resultantly the Executing Officer concerned asked for police help for ensuring the execution of the warrants of possession. Annexure P-13, embodies a letter made by the Sub Divisional Magistrate, Khanna, to the Tehsildar, Khanna, in reference to the latter asking for police help to ensure the execution of the warrants of possession. A perusal of Annexure P-13 reveals, that the Tehsildar, Khanna was directed to contact the police officials concerned for ensuring the makings of an efficacious execution of the warrants of possession. Though, the above communication also resulted in the Tehsildar Khanna making a further communication to the Halka Kanugoo, Khanna, but it appears that even uptill now the warrants of possession have not secured their efficacious execution. Therefore, the petitioner is led to access this Court for the making of a mandamus upon the authorities concerned to ensure the promptest efficacious execution of the warrants of possession.

LOCUS STANDI OF THE PETITIONER.

4. The petitioner is uncontrovertedly a valid allottee of the disputed land concerned. Moreover also uncontrovertedly though the disputed land concerned, is reflected in the Jamabandi to be *shamlat*

favour of the petitioner herein rather for the purpose(s) of it being used as a playground for the village children. In addition, it is also not disputed that some releases of money have been made by the authorities concerned for the construction of a stadium on the *shamlat* land, which yet is claimed by some persons concerned to also become allotted to them. However, though in the face of the present petitioner being a valid allottee of the disputed land, but yet when it was not impleaded as a party in the relevant *lis*. Therefore, it cannot become well capacitated to pray for any mandamus being made by this Court, upon, the respondents concerned to ensure any efficacious execution of the warrants of possession, as become issued in pursuance, to a final verdict (*supra*), as became drawn by the learned Collector concerned.

5. Even if assumingly, especially given the above uncontroverted factum of the petitioner being *prima facie* a valid allottee of the disputed land besides even if assumingly the disputed land has been allotted for its sub serving the purpose of a playground for the village children. Therefore, unless evidence surges forth in display, that the petitioner herein was barred by any overt acts of some purported allottees, from using the allotted land for the relevant purpose, thereupon, the petitioner's *locus standi* to maintain the present petition for the purpose (*supra*) cannot *prima facie* be construed to be bonafide.

EFFECT OF DECREE OF PERMANENT PROHIBITORY INJUNCTION PASSED BY THE LEARNED CIVIL COURT CONCERNED.

6. In the above regard, it is also relevant to refer to a binding and conclusive verdict drawn by the learned Additional Civil Judge

11.08.2014. The above civil suit was instituted as a plaintiff by the present petitioner. In the said civil suit, the petitioner herein arrayed as a defendant not only the *Pardhan* of the Gram Panchayat concerned, but also the purported unauthorized occupants of the *shamlat* land were arrayed as defendant(s). The plaintiff's suit for rendition of a decree of permanent prohibitive injunction for restraining the defendants therein from causing any interference in the playground allotted to the plaintiff, and, as comprised in the contentious khasra numbers, did result in an affirmative decree for injunction being rendered qua the plaintiff, the petitioner herein.

7. In the face of the binding and conclusive decree of permanent prohibitive injunction becoming rendered, by the learned Additional Civil Judge (Senior Division), Khanna, upon the plaintiff's suit, as became instituted for restraining the defendants, inclusive of the purported allottees of the land concerned, hence from making any interferences thereons. Moreover, when the said granted decree has acquired conclusivity. Therefore, the impact of the above binding and conclusive decree, especially when obviously there is also a finding therein, qua the plaintiff-petitioner herein holding possession of the contentious tract of land, is that, the present petitioner is ever facilitated to as, and when any interference or obstruction is made, qua its possession upon the disputed land, at the instance of any litigant concerned, rather enforce the binding and conclusive decree, through its filing an execution petition, before the learned Court of first instance.

CONCLUSION

petitioner herein is in possession of the disputed land. Therefore, the petitioner herein at this stage is not capacitated to ask for any efficacious execution of the warrants of possession, as became issued, in pursuance to a conclusive order of eviction being made by the Collector concerned. The remedy, if any, as above stated, as available to the petitioner, is through its at the appropriate stage filing an execution petition before the Court concerned, hence seeking execution of the binding and conclusive decree, as made, by the learned Additional Civil Judge concerned.

FINAL ORDER

9. In consequence, this Court does not find any merit in the writ petition, and, with the above observations, the same is dismissed.

10. No order as to costs.

(SURESHWAR THAKUR)
JUDGE

(N.S. SHEKHAWAT)
JUDGE

18.10.2022

kavneet singh

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