

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

CWP-28209-2022

Date of Decision: December 23, 2022

HAKAM SINGH

..... Petitioner

Versus

STATE OF PUNJAB AND OTHERS

..... Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE RITU TAGORE**

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

Mr. Sandeep Jain, Addl.AG, Punjab.

Mr. Vikas Mehsempuri, Advocate for respondent No. 5.

LISA GILL, J.

This writ petition has been filed by the petitioner being aggrieved of the appeals filed by him not being decided by the competent authority. Petitioners filed two appeals, one challenging order dated 21.03.2022 passed in the proceedings under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short – ‘1961 Act’) and another appeal challenging order dated 18.07.2022 directing his ejection in the petition under Section 7 of the 1961 Act, filed against him by the respondent – Gram Panchayat.

Notice of motion had been issued in this writ petition on 08.12.2022 while noting the contentions on behalf of the petitioner as under:-

“ It is submitted that petitioner had filed a petition under Section 11 of the Act, which was dismissed on 28.08.2014. The

Joint Development Commissioner, on the appeal filed by the petitioner and his brother, remanded the matter vide order dated 11.09.2019, Annexure P-3. The Collector, it is stated yet again dismissed the petition under Section 11 of the Act on 21.03.2022, Annexure P-4. CWP No. 13441 of 2022, was filed by the petitioner and his brother. The said writ petition was dismissed as withdrawn on 04.07.2022 with liberty to the petitioner to avail the statutory remedy available to him.

Appeal under Section 11 (2) of the Act, it is stated was filed by the petitioner on 07.07.2022 and is now pending for adjudication for 28.12.2022. In the meanwhile, Gram Panchayat, filed an application under Section 7 of the Act, which was allowed on 18.07.2022 without considering the facts and circumstances.

Aggrieved of order dated 18.07.2022, Annexure P-6, petitioner along with his brother filed appeal under Section 7 (2) of the Act, which is also pending adjudication for 28.12.2022.

Learned senior counsel for the petitioner submits that petitioner's application seeking stay of dispossession was rejected in a perfunctory manner without any advertence to the arguments raised and rejection of the interim applications is only reflected by an endorsement on the index of petition which reads as under:-

LA/Reader Stay not granted.

Notice of motion."

Execution of warrant of possession was directed to remain stayed till the next date of hearing.

Learned counsel for respondent No. 5, at this stage, without submitting any arguments on the merits of the matter, states that both the appeals filed by the petitioner are pending final adjudication before the

competent authority by 28.12.2022. He submits that it would be in the fitness of things if both the appeals are decided finally by the competent authority on the said date.

Learned counsel for the petitioner raises no objection thereto and submits that petitioner undertakes that arguments would be addressed on his behalf on the said date. The matter be decided in accordance with law, though it is submitted that the record had not been received before the competent authority till the late date of hearing.

Keeping in view the facts and circumstances as above and the specific stand of respondent No. 5, this writ petition is disposed of with a direction to the Joint Development Commissioner, Punjab to decide both the appeals filed by the petitioner in accordance with law on 28.12.2022 after affording due opportunity of hearing to all concerned and in case it is not possible to decide the same on 28.12.2022, said appeals be decided within the next four weeks thereafter.

Till then, warrant of possession to remain stayed.

It is clarified that there is no expression of opinion on the merits of the matter.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

December 23, 2022
Rts

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