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

CWP-2412-2023

Date of decision:06.02.2023

SUSHIL KUMAR

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLR MR. JUSTICE KULDEEP TIWARI**

Present: Mr. Ravi Chadda, Advocate
for the petitioner.

Ms. Monika Jalota, Sr. DAG, Punjab

SURESHWAR THAKUR, J. (ORAL)

1. It is averred in the petition, that certain sale deeds have been drawn in respect of the vendors/vendees concerned, but it has been also averred, that the drawing of sale deeds concerned, is unlawful, as the revenue entry, made in respect of the lands covered within the sale deeds concerned, describe them, as *Gair Mumkin Rasta*, rasta(s) whereof are not lawfully saleable.

2. Without at this stage, commenting on the legality of the sale deeds yet this Court cannot make a mandamus upon the respondent concerned, to order for the cancellation of the sale deeds concerned, as prior thereto, the apposite declaratory suit is required to be instituted before the Competent Statutory Authorities concerned, with participations therein, of all the affected persons concerned, resulting in also issues being struck on the contested pleadings, and, evidence becoming adduced thereon, whereafters a lawful verdict can be passed by the Competent Authority, in respect of the legality or

otherwise of the execution of the sale deeds purportedly in respect of the *Gair Mumkin Rasta*.

3. Therefore, this Court at this stage, refrains from making the asked for mandamus upon the Authorities concerned. Nonetheless, in the larger interest of justice, it is deemed fit, and, appropriate to direct the learned State counsel, that the BDPO concerned, shall forthwith institute a petition under Section 11 of The Punjab Village Common Lands (Regulation) Act, 1961, before the Competent Statutory Authorities, impleading therein all the vendees/vendors concerned. On the petition (supra), becoming instituted within a fortnight from today, subsequently after pleadings on the said petition becoming completed, the learned Collector concerned, shall formulate all the relevant issues, and, also shall permit the litigants concerned, to adduce their respective evidence(s) thereon, but necessarily after the above exercise is completed, the learned Collector concerned, shall make a lawful decision, upon the relevant lis, but only after giving an opportunity of hearing to all the affected persons. A decision on the said motion be ensured to be made positively within one year.

4. Disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

06.02.2023

Ithlesh

(KULDEEP TIWARI)
JUDGE

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