

108

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

CWP-1706-2023

Date of decision:30.01.2023

DEV SINGH

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

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

Present: Mr. Digvijay Singh, Advocate for
Mr. Vikram Singh, Advocate
for the petitioner.

Ms. Monika Jalota, Sr. DAG, Punjab

SURESHWAR THAKUR, J. (ORAL)

1. Prayer in this writ petition is for quashing of impugned order dated 05.12.2022 (Annexure P-3), passed by the Joint Development Commissioner (IRD), (exercising the powers of Commissioner) Rural Development and Panchayat Department, SAS Nagar, whereby application seeking interim relief filed by the petitioner during pendency of his appeal under Section 11(2) of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as the '1961 Act'), has been dismissed. Learned counsel for the petitioner submits that petitioner filed an appeal under Section 11(2) of the 1961 Act, challenging order dated 29.08.2022 (Annexure P-1), passed by Divisional Deputy Director, Rural Development and Panchayat, Patiala (while exercising the powers of Collector) whereby petition under Section 11 of the 1961 Act for declaring Gram Panchayat as owner of the land/passage in question was

allowed.

2. It is contended that the Joint Development Commissioner (IRD), (exercising the powers of Commissioner) Rural Development and Panchayat Department, SAS Nagar, has dismissed petitioner's application for interim relief through a complete non-speaking order, which reflects total non application of mind. None of the contentions raised on behalf of the petitioner, are stated to become not referred to, much less considered. Learned counsel for the petitioner further submits that order dated 29.08.2022 has been incorrectly passed on a petition filed by the petitioner. The land in question is stated to be situated within the Abadi Deh. It is prayed that *status quo* regarding possession be directed to be maintained pending adjudication of petitioner's appeal which would otherwise be rendered infructuous.

3. Heard learned counsel for the parties.

4. Passing of order dated 29.08.2022 and filing of appeal by the petitioner challenging the same is a matter of record. Petitioner's application for interim relief was dismissed by the Joint Development Commissioner (IRD), (exercising the powers of Commissioner) Rural Development and Panchayat Department, SAS Nagar, while passing the following order on 05.12.2022:-

“Counsel for the appellant appeared. The Appellant Party was heard on the matter of stay. The prayer for stay was rejected. Notice should be issued to the respondent party. The lower court record be requisitioned. The case to be heard on 18.01.2023.”

5. Learned State counsel fairly states that *status quo* regarding possession as on today may be directed to be maintained, during pendency of the appeal, however, with a direction to the Joint Development Commissioner (IRD), (exercising the powers of Commissioner) Rural Development and Panchayat Department, SAS Nagar, to decide the pending appeal in a time bound manner.

6. We find this submission to be extremely fair, as unless the said order is passed, and, was required to be passed rather would render infructuous the statutory appeal. Accordingly, order dated 05.12.2022 (Annexure P-3), passed by the Joint Development Commissioner (IRD), (exercising the powers of Commissioner) Rural Development and Panchayat Department, SAS Nagar, is set aside. *Status quo* regarding possession as on today regarding land in question be maintained during pendency of the appeal, which be decided by the Joint Development Commissioner (IRD), (exercising the powers of Commissioner) Rural Development and Panchayat Department, SAS Nagar, in accordance with law, within a period of three months from receipt of certified copy of this order, after affording due opportunity to all concerned.

7. Writ petition is accordingly disposed of in the aforesaid terms.

(SURESHWAR THAKUR)
JUDGE

30.01.2023

Ithlesh

(KULDEEP TIWARI)
JUDGE

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