

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

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CWP-1745-2023

Date of Decision : **January 30, 2023**

AVTAR SINGH

.....Petitioners

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondents

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

Present: Mr.Hardeep Singh, Advocate
for the petitioner.
Ms. Monika Jalota, Sr. DAG, Punjab.

SURESHWAR THAKUR, J.(ORAL)

1. The petitioner had initially instituted a petition under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter in short called '**the Act**') before the learned Collector concerned. Since the said petition was not prosecuted, either personally by the petitioner or by his validly engaged counsel. Therefore, through an order made on 11.01.2021, the said petition was dismissed in default. However, during pendency of the said petition, on an application for interim relief, the said asked for relief was granted in favour of the petitioner. The application for restoration of the petition was filed within the prescribed period of limitation but since the office of the Collector, was not notified to be manned, therefore, the petitioner instituted a Civil Writ Petition no.13699 of 2022, claiming therein relief qua a mandamus being made upon the respondents concerned, to notify an empowered officer to man the

court of Collector concerned. On the said writ petition as revealed by an order drawn thereon on 06.07.2022, the parties were directed to maintain status quo with respect to possession over the suit land, but also with an order that the competent authority shall make a fresh decision in accordance with law upon the application cast under order 9 Rule 9 CPC, hence seeking restoration of the petition to its original number, the same becoming being dismissed in default on 11.01.2021. Though the said application is stated to be decided by the competent Collector concerned, and, that it is also stated at bar that in consequence thereof, the petition has been ordered to be registered to its original number, and that thereafter, proceedings have been undertaking thereon by the learned Collector concerned.

2. Though in the wake of the restoration to its original number of the civil suit, even if earlier thereto, it being dismissed in default, also did result in the order of status quo, as made in the interim relief application to also prima facie revive, but it appears that since the main petition became dismissed in default, and, the order granting interim relief as carried in Annexure P-2 rather made a direction upon the respondent concerned, to till further orders, not make any interference in respect of the petitioner's possession of the suit property. Therefore, the interim relief would last only upto the subsequent date of hearing. Also it was required that on the subsequent date of hearing, the Collector concerned, hence either extend the operation of said order or to vacate the same. Since the main petition became dismissed in default on 11.01.2021, therefore,

the interim relief as became granted to the petitioner against the Gram Panchayat through Annexure P-2, also did not survive thereafter, given the longevity of the said order not been extended.

3. Be that as it may, since this Court as revealed by Annexure P3, proceeded to order the parties to maintain status quo in respect of the land in dispute, till a fresh decision in accordance with law, is made on the application cast under Order 9 Rule 9 CPC, but when the said application is affirmatively decided, and, when as also stated above, the learned Collector concerned is making further proceedings on the civil suit (Supra). Resultantly, if subsequent to the restoration of the petition, to its original number, no application for interim relief is instituted, thereupon, the petitioner is directed to institute a fresh application seeking interim relief in respect of the suit land.

4. The necessity of filing the above application arises, as the tenure of order carried in Annexure P-2, and, in Annexure P-3, does the reasons (Supra), rather last only upto a decision being made on the application made under Order 9 Rule 9 CPC, and does not last or survive thereafter.

5. In the larger interest of justice, till the above application is filed, the parties are yet directed to maintain status quo in respect of the petition land. The said application be forthwith instituted before the learned Collector concerned, and after hearing all concerned, the said application shall be decided by a speaking order but after hearing all affected persons.

6. Disposed of.

7. All the pending applications stand disposed of.

(SURESHWAR THAKUR)
JUDGE

January 30, 2023
mamta

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No