

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

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CWP-3806-2021

Date of Decision : **February 23, 2023**

TIRATH RAM AND OTHERS

.....Petitioners

VERSUS

**DIRECTOR, RURAL DEVELOPMENT AND PANCHAYAT
PUNJAB AND OTHERS**

.....Respondents

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

Present: Mr. Satbir Rathore, Advocate for the petitioners.
Mr. Maninder Singh, DAG, Punjab.

SURESHWAR THAKUR. J.(Oral)

1. The Gram Panchayat, village Khairabad, Block Dasuya, Tehsil Dasuya, District Hoshiarpur through its Sarpanch instituted a petition under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as '**the Act**') against the respondents therein. In the said petition which became assigned case No.227 of 2014, the Gram Panchayat prayed that an order of eviction be made against the respondents therein, on the ground that the respondents were allottees, but yet they in breach of the conditions of the allotment as made to them rather proceeded to sell, and, alienate the allotted lands, to the alienees concerned. On the said petition, an affirmative decision was recorded on 31.8.2015 by the learned Collector concerned.

2. In an appeal being carried by the aggrieved before the learned Appellate Authority concerned, in as much as by one Tirath Ram, Swaran Singh, Roshan Lal, Gian Chand, Charanjit Singh, Nand Lal, Veer Chand, Ram Dass, Bakshi Ram, Harnam Dass, Tilak Raj, Charan Dass,

Fakir Chand and Gian Singh, thus the competent authority concerned, through a decision drawn on statutory appeal No.152 of 2015 also made a verdict of dismissal thereon. The above concurrently made orders of eviction against the petitioners hence by both the competent authorities below, has caused pain to the petitioners, and, thus they are led to challenge the said orders before this Court.

3. The prime infirmity which grips the concurrently made orders made against the petitioners, is rooted in the prime fact that, though some of the respondents after being validly served through a notice, they caused their appearance before the Collector concerned, rather through their counsel, but on the date mentioned in the notice, the Collector concerned, summarily without granting any opportunity to the respondents to adduce evidence, yet proceeded to make an order of eviction on the eviction petition concerned. The above infirmity continued to travel upto the Appellate Authority concerned.

4. The effect of the above infirmity, is but obvious, that it has caused prejudice to the petitioners herein against theirs proving the assertions as made by them in the reply furnished to the eviction petition, and, but resultantly they have been put to a grave injustice.

5. Therefore, the instant petition is allowed, and, the impugned orders are set-aside, and, the *lis* is remanded to the learned Collector concerned, to after restoring the same to its original number, and, after granting an opportunity to the petitioners, to adduce their evidence in respect of their contentions, as made in the reply furnished to the eviction petition, to thereafter proceed to make a lawful decision on the restored

lis. The remandee Court is directed, if deemed fit, to also permit the alienees, to if not already taken hence to project in their amended replies, the plea of ostensible ownership as carried in Section 41 of the Transfer of Property Act. Moreover, if such a plea is raised, and, when it may involve a question of title, thus the learned Collector concerned, may relegate the Gram Panchayat concerned, to a remedy under Section 11 of the Act, and, wherein the Gram Panchayat concerned, may implead the vendors as well as their respective alienees, as party defendants, so that in their respective written statements, the above plea can be raised, and, thereafter issues are struck, and, subsequently evidence becomes adduced thereons,

6. In view of the above observations, a lawful decision be made by the learned Collector concerned, on the remandee *lis* but positively within a period of three months from today. The parties are directed to record their respective appearances either personally or through their validly engaged counsel, before the learned Collector concerned, on 10.3.2023.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

February 23, 2023
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Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No