

In the High Court of Punjab and Haryana at Chandigarh

1.

CWP No. 5606 of 2022 (O&M)
Date of Decision: 12.4.2023
- Geeta Gupta and others

.....Petitioners
- Versus
- State of Punjab and others

.....Respondents
2.

CWP No. 5618 of 2022 (O&M)
- Suresh Kumar and others

.....Petitioners
- Versus
- State of Punjab and others

.....Respondents
3.

CWP No. 5622 of 2022 (O&M)
- Kewal Krishan and others

.....Petitioners
- Versus
- State of Punjab and others

.....Respondents
4.

CWP No. 5633 of 2022 (O&M)
- M/s Vikas House Building Company Pvt.
Ltd. and others

.....Petitioners
- Versus
- State of Punjab and others

.....Respondents
5.

CWP No. 5634 of 2022 (O&M)
- Munish Jain and another

.....Petitioners
- Versus
- State of Punjab and others

.....Respondents
6.

CWP No. 5638 of 2022 (O&M)
- Reena Rani

.....Petitioner
- Versus
- State of Punjab and others

.....Respondents

7. CWP No. 5640 of 2022 (O&M)

Raghwinder Singh and anotherPetitioners

Versus

State of Punjab and othersRespondents

8. CWP No. 5792 of 2022 (O&M)

Surjit Joginder Pal Singh and anotherPetitioners

Versus

State of Punjab and othersRespondents

9. CWP No. 5794 of 2022 (O&M)

Gurinder GrewalPetitioner

Versus

State of Punjab and othersRespondents

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

Present: Mr. Vikram Singh, Advocate,
Mr. Aayush Gupta, Advocate,
Mr. Gautam Goyal, Advocate for
Mr. Vivek Gupta, Advocate for the petitioner(s)
(in CWP Nos. 5606, 5618, 5622, 5633, 5634,
5638 & 5640 of 2022).

Mr. Namit Gautam, Advocate
for the petitioners (in CWP Nos. 5792 & 5794 of 2022).

Mr. Maninder Singh, DAG, Punjab.

Mr. Onkar Rai, Advocate
for the respondent-Gram Panchayat.

SURESHWAR THAKUR, J. (ORAL)

1. Gram Panchayat, village Jhamat, the respondent herein, in all the afore mentioned writ petitions, filed separate petitions under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short 'the Act'), before the Collector concerned. The said petitions, which become embodied in Annexure P-27 (in CWP Nos. 5606, 5618, 5622, 5633, 5634,

5638 & 5640 of 2022), and, in Annexure P-15 (in CWP Nos. 5792 and 5794 of 2022), became instituted on 20.2.2015.

2. The said petitions were decided through a common order, on 1.6.2017, and, to which Annexure P-15 (in CWP Nos. 5792 and 5794 of 2022, and, Annexure P-27 (in CWP Nos. 5606, 5618, 5622, 5633, 5634, 5638 & 5640 of 2022) are assigned, by the Collector concerned, whereby all the petitions (supra) became allowed. The learned Collector concerned, through the drawing of Annexures (supra), as appended to all the writ petitions, rather made a decision, only upon Old Petition No. 193, Case No. DDDP(11)-Ludhiana-81, as became instituted before him, by the respondent concerned. Moreover, the decision made thereons, thus was also directed to govern the other petitions filed under the Act, by the petitioners concerned.

3. The petitioners concerned, became aggrieved from the said order, as became made by the learned Collector concerned, on all the separate petitions (supra), thus preferred separate statutory appeals, before the competent Appellate Authority concerned. The learned Appellate Authority concerned, through the drawing of Annexure P-17, as appended to CWP Nos. 5792 and 5794 of 2022, and, Annexure P-28, as appended to CWP Nos. 5606, 5618, 5622, 5633, 5634, 5638 & 5640 of 2022, rather made a decision, only upon appeal No. 133 of 2017, as became instituted before it, by the aggrieved concerned. Moreover, the decision made thereons, thus was also directed to govern the said separate statutory appeals. The apposite appeals' were dismissed through a common order made on 19.1.2022.

4. Though there is a complete discussion by the learned Collector concerned, and, the learned Appellate Authority, respectively qua the petition filed under the Act bearing Old Petition No. 193, Case No.

DDDP(11)-Ludhiana-81, and, qua appeal No. 133 of 2017. However, the

learned Collector concerned, as well as the learned Appellate Authority without referring to the facts of each of the separate petitions, and, to the respectively thereagainst reared statutory appeals, and, also without referring to the evidence(s) adduced qua each of the separate cases, but merely on the basis of the facts, and, evidence led in a petition filed under the Act bearing Old Petition No. 193, Case No. DDDP(11)-Ludhiana-81, and, thereafter qua such facts, and, evidence appearing on file appeal No. 133 of 2017, as became instituted before them, by the concerned, hence concluded that the other statutory petitions and statutory appeals also, which rather became separately instituted before them, and which became assigned separate numbers, are also purportedly governed by the facts and evidence, as, adduced in respect of the petition filed under the Act bearing Old Petition No. 193, Case No. DDDP(11)-Ludhiana-81, and, appeal No. 133 of 2017. Resultantly all the petitions as well as the appeals were also decided through a common order, respectively by the learned Collector concerned, and, the learned Appellate Court concerned.

5. Be that as it may, both the statutory authorities below, were required to exercise valid jurisdiction upon each of the separate petitions, and, appeals, and, that could have occurred, only when the facts of each of the separate petitions and appeals were discussed, and, also when the evidence adduced in respect thereof, also became circumspectly deliberated upon, besides became incisively evaluated. However, the above has not happened. Contrarily, and, merely on the basis of the facts and evidence adduced in respect of petition filed under the Act bearing Old Petition No. 193, Case No. DDDP(11)-Ludhiana-81, and, appeal No. 133 of 2017, both the authorities below have made alike verdict(s) upon the other petitions/appeals. The above exercising(s) of jurisdiction, by both the authorities below, in respect of petition other than the petition filed under the

Act bearing Old Petition No. 193, Case No. DDDP(11)-Ludhiana-81, and, in respect of the appeals other than appeal No. 133 of 2017, is a completely insagacious exercise, and/or, is exercised with a material irregularity, and, impropriety, besides is ridden with the vice of grossest non application of mind, and, is required to be undone, through this Court, setting aside the orders, passed by the learned Collector Concerned, and, by the learned Appellate Authority Concerned, and, thereafter making an order of remand, upon the, learned Collector concerned, to restore to their original numbers all the petitions (supra) cast under Section 11 of 'the Act', and, to thereafter in accordance with law, pass separate decision(s) upon each of the restored petitions (supra), as became preferred before it.

6. The learned Remandee Court, after receiving the lis on remand, shall make lawful order thereons, but only after giving an opportunity of hearing to all affected concerned. The decision, on remand by the Remandee Court shall positively be made within a period of six months from today.

7. Consequently, the order passed by the learned Collector concerned, and, by the learned Appellate Authority concerned, are quashed, and, set aside.

8. All the petitions (supra) are disposed of.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

April 12, 2023
Gurpreet

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