

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH.

CWP-19103-2002

Reserved on: 07.12.2023

Pronounced on: 16.12.2023

GRAM PANCHAYAT/GRAM SABHA, VILLAGE MARDANHERI

.....Petitioners

Versus

DIRECTOR-CUM-SPL.SECY. PUNJAB GOVT. RURAL DEVL.  
DEPTT. AND PANCHAYAT DEPARTMENT AND ORS.

....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR  
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Argued by: Mr. Abhinandan Jindal, Advocate  
for the petitioner.

Mr. Maninder Singh, DAG, Punjab.

Mr. Rajkaran Singh Brar, Advocate  
for respondents No. 3 to 5.

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**SURESHWAR THAKUR, J.**

1. The Gram Panchayat of Village Mardanheri, Tehsil and District Patiala through its Sarpanch becomes aggrieved from the concurrently made affirmative decisions, as made respectively, by the Collector concerned (Annexure P-3), and, by the Appellate Authority concerned (Annexure P-5), whereby the declaratory suit, as became laid by the plaintiffs, who are the respondents in the instant petition, thus became decreed.

**Contention(s) of the learned counsel for the petitioner.**

2. The learned counsel appearing for the petitioner submits,

that the concurrently made impugned decisions (supra), whereby a declaratory decree in respect of the suit lands rather became assigned to the respondents, thus was barred by the principle of *res-judicata*.

3. The counsel for the petitioner submits, that the declaratory title, as claimed in the relevant suit was in respect of land comprised in Khewat/Khatauni No. 155/386 Khasra Nos. 33//1(8-0), 2(8-0), 7(6-13), 8(6-13), 9(6-13), 10 (6-13), measuring 42 kanals 12 marlas situated at village Mardanheri, Tehsil and District Patiala.

4. However, he submits that since in respect of the very same lands, the Gram Panchayat had earlier instituted case No.(11)145/DDPO on 06.01.1983, whereons, on 13.02.1985 (Annexure P-6), the claimed therein declaratory decree, thus became assigned to the petitioner-Gram Panchayat. However, yet therein it was also held, that the respondent cannot be ejected from the land in dispute, because of long continuous possession over the same rather by the respondents herein, besides given the earlier application filed by the Gram Panchayat under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter for short called as the 'Act of 1961'), seeking thereby eviction of the respondents herein, also rather becoming dismissed.

5. However, the Gram Panchayat concerned became aggrieved from denial to it of restoration of possession of the suit lands. Therefore, it filed an appeal before the Appellate Authority, seeking therefrom relief, that denial of restoration of possession to it, from the respondents, be quashed and set aside. The said appeal was allowed through an order made on 04.07.1988 (Annexure P-7), whereby the

the land in dispute.

6. Therefore, it is argued that since the objection, thus relating to the subsequent suit (Annexure P-3), as became filed by the predecessors-in-interest of Niranjana Singh, respondents No. 3 to 5 herein, become barred by the principle of *res judicata*, rather became raised in the reply to the said petition, yet when neither the said contention becoming either dealt with nor when any adjudication became made thereons. Resultantly it is argued that the impugned order is vitiated and liable to be quashed and set aside.

7. Lastly, it is submitted before this Court, that the aggrieved from the decision of the Appellate Court, as carried in Annexure P-7, preferred a writ petition bearing No.5068-1989, but thereons this Court on 16.02.2023, made the hereinafter extracted order.

- “1. xxxxx
2. xxxxx
3. *Dismissed as withdrawn....”*

8. Thereby, it is contended that the impugned annexures are not liable to be sustained, as thereby the principle of *res judicata* becomes infringed, as arises from the earlier *lis* instituted by the petitioner against the respondents herein, was but inter-se parties but similar in both litigations, besides when the earlier decision(s) (*supra*), were in respect of khasra numbers, but similar to the khasra numbers in the instant petition.

9. Therefore, resultantly, the impugned annexures are made in complete breach to the principle of *res judicata*, as becomes sparked from the ground(*Supra*).

10. Respondents No. 3 to 5 in their reply, contend that after the passing of the impugned annexures, the mutation was entered in their names, and, subsequently the land in dispute was sold by them, in the year 2002 to the subsequent purchasers, and, thereafter the revenue record has been updated.

11. That those subsequent purchasers have not been impleaded as party in the present writ petition. Thus, the present writ petition deserves to be dismissed on the ground of non impleadment of necessary parties.

**Inference of this Court.**

12. This Court find merits in the contention raised by the learned counsel for the petitioner, as the earlier *lis* which travelled upto this Court, whereons this Court, had dismissed the petition, filed by the aggrieved-petitioners, (respondents herein), from the concurrently made decrees, as became pronounced vis-a-vis the petitioner-Gram Panchayat, thereby the subsequently instituted *lis'* between parties but similar in both the litigations, besides embodying therein similar khasra numbers, thus was not maintainable, and/or was ill constituted nor also any finality or conclusivity can be accorded to the orders passed thereons.

13. Be that as it may, even Annexure P-7 became challenged before this Court, but yet when a reading of the above extracted order passed in passed in CWP-5068-1989, reveals that the said petition became dismissed as withdrawn. Resultantly thereby the respondents herein actively concealed before the Authority below, qua the making of Annexures P-6 and P-7, whereby the earlier suit of the Gram

14. Reiteratedly thereby the respondents also concealed in the subsequent motions, whereons, respectively Annexures P-3 and P-5 became pronounced, qua the said subsequent motions, thus being hit by the doctrine of constructive *res judicata*. Therefore, the subsequent motions are barred by the principle of *res judicata*.

**FINAL ORDER OF THIS COURT.**

15. In aftermath, this Court finds merit in the writ petition, and, with the above observations, the same is allowed.

16. The impugned Annexures P-3 and P-5 are quashed and set aside.

17. Since the main case(s) itself has been decided, thus, all pending application(s), if any, also stand disposed of.

**(SURESHWAR THAKUR)**  
**JUDGE**

**(SUDEEPTI SHARMA)**  
**JUDGE**

**16.12.2023**

kavneet singh

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