

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

222

CWP-6483-2020

Date of Decision : **February 13, 2023**

GURDEEP SINGH AND ANR

.....Petitioners

VERSUS

STATE OF PUNJAB AND ORS

.....Respondents

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

Present: Mr. Sandeep Godara, Advocate for
Mr. Ajay Pal Singh Rehan, Advocate
for the petitioners.

Mr. Maninder Singh, DAG, Punjab.

Ms. Gurkanwal Kaur, Advocate for
Mr. Deepak Arora, Advocate
for respondents No.8 to 12.

SURESHWAR THAKUR. J.(Oral)

1. Learned State counsel on instructions given to him by the official concerned, submits that though the Gram Panchayat concerned, has received lawful possession of the petition land(s), after successful, and, efficacious execution, being made of the warrants of possession, as became issued by the learned Collector concerned, after the orders of eviction acquiring finality, yet the encroachers concerned, yet assuming unlawful, and, unauthorized possession of the petition land(s). The above is unfolded, in Annexure P-6. Therefore, the above purported unlawful re-assumptions, of possession of the petition land(s), gives rise to fresh cause of action to the Gram Panchayat concerned, to may be re-institute a petition under Section 7 of the Punjab Village Common Lands

(Regulation) Act, 1961, and, also a valid cause of action accrues to the Panchayat concerned, to but in accordance with law, to draw criminal prosecution against the encroachers concerned.

2. Though after the termination of the execution petition concerned, as laid before the learned Collector concerned, the above errant conduct of the JDs concerned, to even thereafter reassume unlawful possession of the petition land(s), is required to be deprecated, but yet also the lawful mechanism available to the Panchayat concerned, to yet lawfully ensure the restitution qua it, of such unlawful repossession, of the relevant land(s), from the JDs concerned, rather is to be discovered.

3. Though the learned Collector concerned, after receiving from the Warrant Officer concerned, a report that the warrants of possession issued in respect of the petition land(s), have been successfully, and, efficaciously executed, has made an objective satisfaction that the encroachers upon the petition land(s), have been removed therefrom. However, necessarily the above closure of the execution petition, in the above manner, does not reserve any further jurisdiction, rather in the learned Collector concerned, to yet ensure the restitution of possession of the petition land(s), to the Gram Panchayat concerned, from the encroachers concerned. However, be that as it may, the remedy for ensuring, that even at this stage, or, post execution of the warrants of possession qua the petition land(s), the encroachers thereon, becoming lawfully ensured, to be evicted therefrom, is either in the Gram Panchayat concerned, instituting an FIR with the Police Station concerned,

embodying therein the offence of criminal trespass, becoming committed by the errants concerned, besides also the remedy now available to the Gram Panchayat concerned, is to access, the Police Officer concerned, to draw a Kalandra in terms of Section 145 Cr.P.C., and, present the same before the Executive Magistrate concerned, whereafter the latter shall in accordance with the procedure as detailed in Section 145 Cr.P.C., pass lawful orders thereon, and, shall also pass an order for the restitution of the possession of the petition land(s) from the errants concerned, to the Gram Panchayat concerned. For ensuring, that the above exercise is successfully done, this Court directs that the Block Development and Panchayat Officer of the area concerned, shall forthwith choose to draw both the above proceedings against the errants concerned. Subsequently the Executive Magistrate concerned, shall forthwith lawfully terminate the proceedings embarked upon under Section 145 Cr.P.C.

4. Disposed off.

**(SURESHWAR THAKUR)
JUDGE**

**(KULDEEP TIWARI)
JUDGE**

February 13, 2023

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