

In the High Court of Punjab and Haryana at Chandigarh

CWP No. 8624 of 2022 (O&M)

Date of Decision: 27.2.2023

Sham Lal

.....Petitioner

Versus

State of Punjab and others

.....Respondents

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

Present: Mr. Sukhdev Singh Kanwal, Advocate
for the petitioner.

Ms. Monika Jalota, Sr. DAG, Punjab.

Mr. Vijay Kumar Chaudhary, Advocate
for respondent No. 4.

SURESHWAR THAKUR, J. (ORAL)

1. Gram Panchayat, Khush Nagar, Block and Tehsil Mukerian, District Hoshiarpur through SEPO Maninder Singh filed a petition under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short 'the Act of 1961'). Through the petition (supra), the eviction of the respondents concerned, in the petition (supra), was claimed on the ground, that there was a breach of the terms and conditions of the allotment, as became made by the competent authority concerned, to co-respondents No. 1 to 5. In the said petition, the alienees of co-respondents No. 1 to 5 were impleaded as co-respondents No. 6 to 8. The learned Collector concerned, after bearing in mind the terms and conditions of the allotment, as made to the allottees concerned, and, which barred them from making alienation of the allotted lands, drew a conclusion, that the respondents are to be evicted from the petition lands. The aggrieved therefrom instituted an

appeal thereagainst before the learned appellate authority concerned, and, thereons also an order became drawn, hence affirming the order, as became made earlier by the learned Collector concerned.

2. Resultantly, the aggrieved from the concurrently made orders of eviction by both the statutory authorities below, on a petition cast under Section 7 of the Act of 1961, has instituted thereagainst the instant petition before this Court.

3. Without going into the merits of the case, this Court is of the firm view, that the orders challenged before this Court, are void, and, nonest, and, the said view is taken on the premise of an averment existing in paragraph 6 of the reply furnished to the petition (supra), by co-respondents No. 6 to 8, wherein, it becomes echoed, that co-respondents No. 1, 2 and 4 had died. Therefore, at the very outset, the said eviction petition was mis-constituted, it being cast against dead persons. Since the above mis-constituted petition did not come to be cured either before the learned Collector concerned, or before the appellate authority concerned, through subsequent theretos, an application being filed, rather for seeking impleadments of the LRs of the deceased respondents concerned, but in substitution of the deceased litigants concerned. Resultantly, both the challenged orders, as made on the petition cast under Section 7 of the Act of 1961, are declared to be void, and, nonest, as, in the memo of parties thereof, some of the respondents were dead, even at the stage of institution of the petition (supra).

4. Consequently, after allowing the instant writ petition, the lis is remanded to the learned Collector concerned, to enable the Gram Panchayat concerned, to after leave being granted to it to withdraw the earlier petition,

to institute a better constituted petition before the learned Collector concerned, and, in the said petition, the deceased allottees/assignees shall not be impleaded as respondents therein but their legal representatives shall be arrayed as respondents in the said petition. Subsequently, the learned Collector concerned, shall proceed to, after granting an opportunity of hearing to all the affected persons, and, also after asking for fresh pleadings being drawn in respect of the newly constituted petition, shall make a lawful decision thereons, but positively within a period of six months from today.

5. The pending application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

February 27, 2023
Gurpreet

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