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

**CWP-8370-2023**

Date of decision:24.04.2023

NAIB SINGH AND OTHERS

...Petitioners

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

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

Present: Mr. K.S. Boparai, Advocate with  
Ms. Archana Vashisht, Advocate  
for the petitioners.

Ms. Monika Jalota, Sr. DAG, Punjab

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**SURESHWAR THAKUR, J. (ORAL)**

1. The petitioners herein suffered a verdict of eviction from the learned Collector concerned on a petition cast, under Section 7 of the The Punjab Village Common Lands (Regulation) Act, 1961. The said verdict of eviction is enclosed as Annexure P-3.

2. The aggrieved therefrom judgment debtors concerned, petitioners herein, made an appeal thereagainst before the learned Appellate Authority concerned. To the statutory appeal, Appeal No.PUN/JDC/Ev/2022/1009 became assigned. Moreover, along with the said statutory appeal, they filed an application, claiming therein relief qua during the pendency of the above statutory appeal, the operation of the impugned order being stayed. However, through an order (Annexure P-10), as, made thereons, the said relief was declined to the appellants in the above statutory appeal. The above declining of relief to the petitioners before this Court by the learned Competent Appellate

Authority concerned, has led the appellants therein, to institute thereagainst the instant petition before this Court.

3. Though the Competent Appellate Authority could well decline relief to the applicants, upon the application (*supra*), claiming therein relief for staying the operation of the impugned verdict of eviction, as became recorded against the petitioners herein, through Annexure P-3, but only when the apposite order became rested upon a complete, and, thorough analysis of the entire pleadings, as became placed before it, whereafter, an objective speaking order was to be made on the said application. However, a reading of Annexure P-10 discloses, that in a most short shrift, and, cryptic manner the application concerned, has been dismissed. Therefore, the dismissal of the said application is obviously done in a most perfunctory, and, slipshod manner, and, is required to be undone.

4. Even otherwise, the learned Appellate Court concerned, may well have considered to grant the asked for relief in the said application, and, thereafter may have ensured, that an expeditious decision is made on the statutory appeal (*supra*), rather than its proceeding to make, a dismissal order upon the application concerned, which may ultimately, in case there, is a reversal in the statutory appeal, of the eviction order, as, initially made against the petitioners, through Annexure P-3, rather beget the ill consequence of multiplicity of proceedings thus becoming generated. The above ill event may have been obviated, whereas, it may arise upon the judgment debtors concerned, claiming restitution of possession of the petition lands, from the Gram Panchayat concerned, after annulment of the eviction order, especially when possession thereof may become assumed, *subjudice* the statutory appeal, but in pursuance to the dismissal order, as, made on the application concerned.

5. However, even the above principle of law governing the necessity of a just decision being made on an application for staying the operation of the

impugned verdict hence *subjudice* the statutory appeal (supra), has not been borne in mind rather became untenably completely overlooked, leading to gross injustice being done to the petitioners.

6. Therefore, after allowing the instant petition, the impugned order of 07.12.2022 (Annexure P-10) is quashed, and, set aside. The learned Appellate Authority is directed to, within two months hereafter make a lawful decision, upon, the statutory appeal, but after hearing all affected concerned.

7. Till then status quo regarding possession of property in question in the writ petition only, as on today, be maintained.

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

**24.04.2023**

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**(KULDEEP TIWARI)**  
**JUDGE**

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