

104

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

CWP-8554-2023

Date of Decision : 03.05.2023

GRAM PANCHAYAT VILLAGE KOHARA

.....Petitioner

Versus

STATE OF PUNJAB AND OTHERS

....Respondents

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

Present : Mr. Sourabh Singla, Advocate
for the petitioner.

Ms. Monika Jalota, Sr. DAG, Punjab.

SURESHWAR THAKUR, J. (Oral)

1. The mandamus claimed in the instant petition is for a direction being made, upon, the respondents concerned, to make a lawful speaking decision on Annexure P-4. In Annexure P-4, there is a claim that the encroachers be evicted from the encroached, upon, panchayat land. The above asked for mandamus cannot, at this stage, be granted to the Gram Panchayat, the petitioner herein, as there are statutory remedies available to it, thus, to seek the eviction of the encroachers over the panchayat land, rather through the drawing of a petition under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961, (for short hereinafter referred to as 'the PVCL Act').

2. Therefore, on the previous date of hearing, the learned counsel for the petitioner was directed to place on record, the petition, if

any, as became instituted under Section 7 of 'the PVCL Act'.

3. In compliance to the above oral directions, the learned counsel for the petitioner has placed on record a decision drawn by the learned Collector concerned, on a Section 7 petition of 'the PVCL Act', as became instituted before it. The apposite order has also been placed on record. The said order has been drawn on 29.10.2021, whereby the encroachers upon the panchayat land have been directed to vacate the said panchayat land. Furthermore, in consequence, to the making of the verdict (supra), on a Section 7 petition, of 'the PVCL Act', the learned Collector concerned, has also drawn warrants of possession against the petition lands, and, also against the encroachers concerned.

4. Though, the above warrants of possession were required to be promptly completely enforced, but yet only when the order of eviction, as became initially recorded by the learned Collector concerned, on a Section 7 petition of 'the PVCL Act' thus, acquiring binding and conclusive effect, inasmuch as, the same being upheld also by the Appellate Authority concerned, and thereafter, becoming upheld by this Court, in a writ petition preferred against the concurrently made eviction orders, by the competent statutory authorities below. In the above regard, since the learned counsel for the petitioner states before this Court, that the aggrieved from the order of eviction, as passed by the learned Collector concerned, have taken to file thereagainst a statutory appeal, before the Competent Appellate Authority concerned.

5. However, even if no stay has been granted by the competent Appellate Authority concerned, against the execution of the warrants of possession, but yet in the larger interest of justice, so as to forestall the ill effects of multiplicity of litigation(s), thus resulting, but from the

aggrieved being led to seek the restitution of possession of the disputed

lands, from the panchayat concerned, upon, their succeeding in subsequent proceedings. Therefore, in case the warrants of possession are yet enforced qua the Gram Panchayat concerned, whereas, rather the subsequent proceedings as initiated, may bring success to the aggrieved, thereby leading to a claim being raised, thus, for restitution of possession, of the disputed lands to them from the panchayat. Therefore, thus there would be avoidable multiplicity of litigation(s).

6. Therefore, to avoid the ill occurrence(s) of the above multiplicity of litigation(s), this Court is constrained to direct the Appellate Authority concerned, to make an expeditious lawful decision, imperatively within three months from today, on the statutory appeal, as preferred before it, by the aggrieved concerned.

7. Though, it is stated at the bar by the learned counsel for the petitioner, that the learned Appellate Authority concerned, has not yet stayed the warrants of possession, but yet in the wake of the above, this Court is of the view, that the parties may not till, the Appellate Authority concerned, as seized with the statutory appeal, makes a final decision thereons, rather disturb the possession, as existing, as of today, over the petition lands.

8. Disposed of.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

03.05.2023

kavneet singh

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