

CWP-10603-2022 (O & M)

Date of Decision : 02.02.2023

GURCHARAN SINGH AND ANR.

.....Petitioners

Versus

JOINT DEVELOPMENT COMMISSIONER AND ORS.Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**Present : Mr. Vikas Mehsempuri, Advocate
for the petitioners.

Ms. Monika Jalota, Sr. DAG, Punjab.

SURESHWAR THAKUR, J. (Oral)**CM-14694-2022**

1. At the very outset, the learned counsel for the applicant-petitioners seeks permission to withdraw the instant application.
2. Permission granted.
3. Consequently, the extant application is dismissed as withdrawn.

CWP-10603-2022

1. One Som Nath alias Soma Singh filed a petition No. [7] 713/DDPO before the Collector (Panchayat Land) DDPO, Patiala. The said petition was cast under Section 7 of the Punjab Village Common Land (Regulation) Act, 1961 (hereinafter referred to as '**the Act**'). In the petition (Supra), the petitioner sought the eviction of the respondents therein, from the petition land, on the ground that they were encroachers, upon land rather owned and possessed by the Gram Panchayat concerned. On petition (Supra), the learned Collector concerned, made an affirmative order, on 08.01.2014, leading the aggrieved to institute a statutory appeal

before the learned Appellate Authority concerned. On the said statutory appeal to which Appeal No. 121 of 2015 became assigned, the Appellate Authority after dismissing the appellants' appeal hence affirmed the order as became initially pronounced by the learned Collector concerned. Therefore, the aggrieved therefrom, the petitioners herein, are led to institute thereagainst the instant petition before this Court.

2. Learned counsel for the petitioners, has challenged both the impugned orders, and submits that both the impugned orders, are completely vitiated, as they become rendered on a misconstituted motion, being made by one Som Nath alias Soma Singh, who, however, was not ably bestowed with the statutory leverage, to file a petition under Section 7 of the Act before the Collector concerned. In making the above argument(s), he rests them on sub-section 1 of Section 7 of the Act, provisions whereof become extracted hereinafter:-

“Power to put panchayat in possession of shamilat deh-

(1) The Collector shall on an application made to him by a panchayat, or by an officer, duly authorized in this behalf by the State Government by a general or special order, after making such enquiry, as he may think fit and in accordance with such procedure as may be prescribed put the panchayat in possession of the land or other immovable property in the *shamilat deh* of that village which vests or is deemed to have been vested in it under this Act and for so doing the collector may exercise the powers of a revenue court in relation to the execution of a decree for possession of land under the Punjab Tenancy Act, 1887.”

3. A reading of the above extracted provision, thus, vividly support the arguments addressed before this Court by the learned counsel for the petitioners that, the therein bestowed statutory leverage for ably

on the Shamlat land rather becomes ably vested in the Gram Panchayat or in a duly authorised officer. Necessarily when any private person, as one Som Nath alias Soma Singh is, rather, is, not ably bestowed with the above statutory privilege. Therefore, both the authorities below could neither entertain a misconstituted petition nor were well empowered, to exercise any valid jurisdiction thereons nor they could pass the impugned orders respectively, upon case No. [7] 713/DDPO dated 08.01.2013, and, later upon appeal No. 121 of 2015.

4. Inconsequence, the instant petition is allowed and the impugned orders are on the above ground hence quashed and set-aside. However, with the liberty to the respondents concerned, to re-institute a better constituted petition under Section 7 of the Act, before the Collector concerned, and, on such petition(s) becoming instituted, the Collector concerned, shall after hearing all affected persons, make a speaking decision thereons, but within a period of 6 months on their preferment.

5. Disposed of in the above terms.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

02.02.2023

kavneet singh

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